

**Introduced by Senator Leno**February 27, 2009

---

---

An act to repeal Section 5006.8 of the Public Resources Code, to repeal Section 3 of Chapter 2 of the Statutes of 1958 of the First Extraordinary Session, to repeal Chapter 464 of the Statutes of 2002, and to repeal Chapter 435 of the Statutes of 2003, relating to tidelands and submerged lands.

## LEGISLATIVE COUNSEL'S DIGEST

SB 792, as introduced, Leno. Tidelands and submerged lands: City and County of San Francisco: Candlestick Point and Hunters Point Naval Shipyard.

(1) Existing law 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. The State Lands Commission has jurisdiction over tidelands and submerged lands of the state.

The Hunters Point Shipyard Conversion Act of 2002 granted to, and vested in, the San Francisco Redevelopment Agency, all of the state's right, title, and interest in the Hunters Point trust lands, and, upon conveyance by the federal government to the agency, in appurtenances located on Hunters Point submerged lands, subject to the public trust and the terms and conditions of the act. The Hunters Point Shipyard Public Trust Exchange Act approved an exchange of public trust lands within the Hunters Point Shipyard, whereby certain trust lands that meet specified criteria and are not useful for public trust purposes are freed from the public trust and may be conveyed into private ownership, and certain other lands that are not public trust lands and that are useful for public trust purposes are made subject to the public trust. Existing law

authorizes the Director of Parks and Recreation to enter into agreements concerning the development of a project in the City and County of San Francisco and partly within the Candlestick Point State Recreation Area.

This bill would repeal the Hunters Point Conversion Act of 2002 and the Hunters Point Shipyard Public Trust Exchange Act. The bill would also repeal the provision authorizing the Director of Parks and Recreation to enter into agreements concerning that project in the City and County of San Francisco.

This bill instead would grant to, and vest in, the San Francisco Redevelopment Agency, all of the state's right, title, and interest in Candlestick Point and the former Hunters Point Naval Shipyard trust lands, as revised, and, upon conveyance by the federal government to the agency, in appurtenances located on Hunters Point submerged lands, subject to the public trust, and the terms and conditions of this bill.

This bill would also approve an exchange of public trust lands within the lands conveyed, whereby certain trust lands that meet specified criteria and are not now useful for public trust purposes will be freed from the public trust and may be conveyed into private ownership, and certain other lands that are not now public trust lands and that are useful for public trust purposes will be made subject to the public trust.

The bill would require the agency to deposit all moneys collected by the agency arising out of the use or operation of any of the trust lands into a special fund maintained by the agency. The bill would require the agency to prepare an annual statement of financial conditions and operations and to submit the statement to the State Lands Commission each year on or before October 1, thereby imposing a state-mandated local program.

The bill would authorize the Director of Parks and Recreation to enter in an agreement to transfer to the agency or the City and County of San Francisco an interest in state property held by the department within the Candlestick Point State Recreation Area upon the director making certain findings.

(2) The bill would state findings and declarations of the Legislature regarding the need for special legislation.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. The following definitions apply for purposes of  
2 this act:
- 3 (a) “1958 Act” means Chapter 2 of the Statutes of 1958 of the  
4 First Extraordinary Session.
- 5 (b) “Agency” means the San Francisco Redevelopment Agency,  
6 or any successor redevelopment agency with jurisdiction over the  
7 project area.
- 8 (c) “Applicable statutory trust” means either of the following:
- 9 (1) Where the agency is the trustee, the terms and conditions of  
10 the state’s trust grant to the agency under this act.
- 11 (2) Where the city is the trustee, the Burton Act trust.
- 12 (d) “Burton Act” means Chapter 1333 of the Statutes of 1968,  
13 as amended.
- 14 (e) “Burton Act lands” means all those lands within the project  
15 area owned in fee by the city and held subject to the Burton Act.
- 16 (f) “Burton Act trust” means the statutory trust imposed by the  
17 Burton Act, by which the state conveyed to the city, in trust and  
18 subject to certain terms, conditions, and reservations, the state’s  
19 interest in certain tidelands, including filled lands, and lands  
20 dedicated or acquired by the city as assets of the trust.
- 21 (g) “Candlestick Point” means all that real property situated in  
22 the City and County of San Francisco commonly known as  
23 Candlestick Point.
- 24 (h) “City” means the City and County of San Francisco, a charter  
25 city and county, and includes the City and County of San Francisco  
26 acting by and through its Port Commission.
- 27 (i) “City reversionary interest” means the reversionary interest  
28 retained by the city in the lands transferred to the state pursuant  
29 to the quitclaim deed from the city to the State of California,  
30 recorded January 24, 1984, at Reel D633, Image 1952 in the office  
31 of the San Francisco City and County Recorder, under which the  
32 transferred lands would revert to the city upon certain conditions  
33 specified in the deed.
- 34 (j) “Commission” means the State Lands Commission.

- 1 (k) “Community Redevelopment Law” means Part 1  
2 (commencing with Section 33000) of Division 24 of the Health  
3 and Safety Code.
- 4 (l) “Department” means Parks and Recreation.
- 5 (m) “Director” means the Director of Parks and Recreation.
- 6 (n) “Hillside open space” means that area of land so designated  
7 as depicted in the diagram in Section 25 of this act.
- 8 (o) “Hunters Point submerged lands” means all that real property  
9 situated in the City and County of San Francisco that is presently  
10 submerged and is outside the boundaries of the shipyard, but within  
11 the boundaries of the Hunters Point Shipyard Redevelopment Area  
12 as shown in the redevelopment plan.
- 13 (p) “Project” means the integrated development of a combination  
14 of uses on Candlestick Point and the shipyard, including, but not  
15 limited to, residential, commercial, and recreational uses, in  
16 accordance with the redevelopment plan.
- 17 (q) “Project area” means the shipyard and Candlestick Point.
- 18 (r) “Proposition G” means Proposition G, also known as the  
19 “Mixed Use Development Project for Candlestick Point and  
20 Hunters Point Shipyard,” approved by the voters of the city in June  
21 2008.
- 22 (s) “Public trust” or “trust” means the public trust for commerce,  
23 navigation, and fisheries.
- 24 (t) “Redevelopment plan” means the Hunters Point Shipyard  
25 Redevelopment Plan, and those portions of the Bayview-Hunters  
26 Point Redevelopment Plan pertaining to the redevelopment of  
27 Candlestick Point, adopted by the agency pursuant to Chapter 4.5  
28 (commencing with Section 33492) of the Community  
29 Redevelopment Law, as those plans may be amended from time  
30 to time.
- 31 (u) “Shipyard” means all that real property situated in the City  
32 and County of San Francisco commonly referred to as the Hunters  
33 Point Naval Shipyard.
- 34 (v) “State” means the State of California, or any political  
35 subdivision or instrumentality of the state.
- 36 (w) “State property” means the property or interests in property  
37 owned by the state located within the project area, and includes  
38 both proprietary land and sovereign land.
- 39 (x) “State recreation area” means the Candlestick Point State  
40 Recreation Area.

1 (y) “Tidelands” means the lands lying below the elevation of  
2 ordinary high water, whether filled or unfilled, and includes  
3 submerged lands, unless specified otherwise.

4 (z) “Trustee” means the owner and trust administrator of trust  
5 lands granted pursuant to this act or the Burton Act, and is either  
6 the agency, with respect to lands owned by the agency, or the city,  
7 with respect to lands owned by the city.

8 (aa) “Trust lands” means all lands, including tide and submerged  
9 lands, within the project area that are presently, or upon conveyance  
10 out of federal ownership will be, subject to the public trust.  
11 Following a trust exchange, trust lands shall include all lands within  
12 the project area that have been impressed with the trust pursuant  
13 to the exchange, and shall not include any lands that have been  
14 removed from the trust pursuant to the exchange.

15 SEC. 2. The Legislature finds and declares all of the following:

16 (a) The purpose of this act is to facilitate the productive reuse  
17 of the lands within the areas of San Francisco known as Candlestick  
18 Point and the former Hunters Point Naval Shipyard in a manner  
19 that furthers the purposes of the public trust and the Community  
20 Redevelopment Law. To effectuate this purpose, this act grants  
21 the state’s sovereign interest in the lands comprising the shipyard  
22 to the agency upon the transfer of those lands out of federal  
23 ownership, and approves and authorizes the commission to carry  
24 out an exchange of lands that will place or confirm the public trust  
25 on lands within the project area with substantial value for the public  
26 trust, and terminate the public trust in project area lands that are  
27 no longer useful for trust purposes. This act also authorizes the  
28 department to enter into an agreement to transfer certain lands  
29 within the Candlestick Point State Recreation Area to the agency  
30 or the city, provided that the agreement provides an overall benefit  
31 to the state recreation area and meets certain other conditions set  
32 forth in this act.

33 (b) The project area, including both the shipyard and Candlestick  
34 Point, encompasses lands that were historically tidelands subject  
35 to the public trust, as well as historic uplands that were not subject  
36 to the trust. Beginning in 1861, certain of the area’s tidelands were  
37 conveyed into private ownership by the state pursuant to various  
38 state statutes. Portions of those tidelands were subsequently filled  
39 and reclaimed. The trust status of the reclaimed tidelands is  
40 uncertain. Due to differences in the various statutes authorizing

1 the conveyance of the tidelands into private ownership, as well as  
2 other historical circumstances, some of the reclaimed tidelands,  
3 including lands located well inland from the current shoreline,  
4 have remained subject to the public trust, while other reclaimed  
5 tidelands, including most of the lands adjacent to the shoreline,  
6 may have been freed from the trust. In addition, a portion of the  
7 lands that are subject to the trust consist of “paper streets” that  
8 were mapped but never built, forming a grid pattern that is not  
9 consistent with the existing or planned street system for the lands,  
10 and these lands are no longer useful for trust purposes.

11 (c) In 1939, the United States began acquiring lands for purposes  
12 of constructing and operating what came to be known as the  
13 Hunters Point Naval Shipyard. The shipyard was used primarily  
14 as a United States Navy industrial operation for the modification,  
15 maintenance, and repair of ships. The shipyard was closed in 1974,  
16 resulting in adverse economic impacts on the economic base of  
17 the surrounding Bayview Hunters Point neighborhood. Pursuant  
18 to Section 2824(a) of the National Defense Authorization Act for  
19 fiscal year 1991, as amended by Section 2834 of the National  
20 Defense Authorization Act for fiscal year 1994, the United States  
21 Navy is authorized to convey the shipyard, or portions of the  
22 shipyard, to the city or to a local reuse authority approved by the  
23 city. The agency is the approved local reuse authority for the  
24 shipyard. Pursuant to a 2004 conveyance agreement with the  
25 agency, the United States Navy has conveyed a portion of the  
26 shipyard to the agency and has agreed to transfer the remainder to  
27 the agency following hazardous materials remediation.

28 (d) The state’s sovereign interest in the filled tidelands at  
29 Candlestick Point consists primarily of paper streets and portions  
30 of a former railroad right-of-way. In 1958, the state, through the  
31 1958 Act, authorized the sale of a portion of these lands to the city  
32 of for the purpose of developing a sports stadium. The 1958, Act  
33 terminated the public trust on the transferred lands, but required  
34 that they be used only for purposes of general statewide interest.  
35 Pursuant to the 1958 Act, the city acquired the lands free of the  
36 trust and constructed the stadium commonly referred to as  
37 Candlestick Park, which is now nearing the end of its useful life.

38 (e) In 1968, the Legislature enacted the Burton Act, which  
39 granted the state’s remaining interest in tidelands within the city,  
40 including the state’s sovereign interests in the portion of

1 Candlestick Point outside of the stadium site, to the city, subject  
2 to the public trust and the Burton Act trust. The state subsequently  
3 acquired private lands along the shoreline of Candlestick Point to  
4 create the Candlestick Point State Recreation Area. In 1984, the  
5 city conveyed back to the state those lands within the state  
6 recreation area boundaries that the city had acquired under the  
7 1958 Act and the Burton Act, subject to the city's reversionary  
8 interest. The state recreation area was the first California state park  
9 unit developed in an urban environment and is a critical component  
10 of the state park system. At present, however, much of the state  
11 recreation area is underutilized and in need of substantial  
12 restoration and improvement.

13 (f) The shipyard and Candlestick Point are in close proximity  
14 to one another, separated only by Yosemite Slough and South  
15 Basin. Together, they comprise approximately 760 acres and make  
16 up the largest area of underused land in the city. The shipyard,  
17 once a source of economic opportunity for the surrounding  
18 Bayview Hunters Point community, has stood dilapidated and  
19 abandoned for over 30 years and now stands as a barrier to public  
20 health, open space, and the waterfront, and a blight on one of San  
21 Francisco's poorest communities. The revitalization of Candlestick  
22 Point has been contemplated for over 10 years to create much  
23 needed economic and public benefits, affordable housing for  
24 Bayview Hunters Point residents, and other tangible benefits to  
25 the Bayview Hunters Point community. The stadium at Candlestick  
26 Point is nearing the end of its useful life and is in need of  
27 replacement, the nearby public housing development at Alice  
28 Griffith requires a complete rebuilding, and the restoration and  
29 improvement of the adjoining state recreation area has been a  
30 long-time goal of the state, the city, and the Bayview Hunters Point  
31 community.

32 (g) Until 2007, efforts to redevelop the shipyard and Candlestick  
33 Point proceeded separately from one another. In 1997, the agency  
34 and the city adopted the Hunters Point Shipyard Redevelopment  
35 Plan to provide for the economic revitalization of the shipyard  
36 upon its transfer out of federal ownership. In anticipation of the  
37 transfer of the shipyard to the agency, the Hunters Point Shipyard  
38 Conversion Act of 2002 (Chapter 464 of the Statutes of 2002), and  
39 the Hunters Point Shipyard Public Trust Exchange Act (Chapter  
40 435 of the Statutes of 2003), which together granted in trust to the

1 agency all of the state’s sovereign interest in certain lands within  
2 and adjacent to the shipyard and authorized a shipyard-wide public  
3 trust exchange, subject to certain terms and conditions.

4 (h) In 1998, Section 5006.8 of the Public Resources Code was  
5 enacted for the purpose of facilitating the redevelopment of  
6 Candlestick Point in accordance with Propositions D and F, which  
7 were approved by voters of the city on June 3, 1997. Those  
8 measures authorized development of a stadium, retail and  
9 entertainment center, and associated support uses on the site. In  
10 2006, the city and the agency adopted the Bayview Hunters Point  
11 Redevelopment Plan, which included provision for a stadium  
12 project consistent with Propositions D and F. Subsequently, the  
13 primary tenants of the stadium, the San Francisco Forty Niners,  
14 announced their intention to build a new stadium in a location  
15 other than Candlestick Point.

16 (i) In 2007, the city and the agency undertook a new, integrated  
17 planning effort for the shipyard and Candlestick Point, which  
18 resulted in the adoption of a conceptual framework for  
19 development. The conceptual framework calls for a mixed use  
20 project on the project area that will provide, among other things,  
21 much needed parks and open space, including a major renovation  
22 of the state recreation area to enhance access by residents and  
23 visitors to the waterfront; new business and employment  
24 opportunities; new housing opportunities affordable for residents  
25 of the neighboring Bayview Hunters Point community; a site for  
26 a new sports stadium on the shipyard, with alternative uses if the  
27 San Francisco Forty Niners elect to build a new stadium elsewhere;  
28 and other economic and public benefits for the community and the  
29 city as a whole.

30 (j) In June 2008, the voters of the city approved Proposition G,  
31 the “Mixed Use Development Project for Candlestick Point and  
32 Hunters Point Shipyard.” Proposition G repealed Propositions D  
33 and F and promulgated city policy encouraging the timely  
34 development of the project area with a mixed-use project including:  
35 over 300 acres of public park and open space; between 8,500 and  
36 10,000 homes; about 700,000 square feet of retail space; about  
37 2,150,000 square feet of green office, science and technology,  
38 research and development, and industrial space; a possible arena  
39 or other public performance site; a site in the shipyard for a new  
40 stadium for the San Francisco Forty Niners; and additional green

1 office, science and technology, research and development, and  
2 industrial space, or additional housing, if a new stadium is not  
3 built. Proposition G specifically contemplated a mix of stacked  
4 flats, attached town homes and, in appropriately selected locations,  
5 low-rise, mid-rise, and high-rise towers, to help ensure the  
6 economic feasibility of the development and provide a varied urban  
7 design. Proposition G also made it city policy that the project be  
8 consistent with the following objectives: producing tangible  
9 community benefits for residents of the Bayview Hunters Point  
10 neighborhood and the city; reconnecting the shipyard and  
11 Candlestick Point with the Bayview Hunters Point neighborhood  
12 and protecting the Bayview Hunters Point neighborhood character  
13 for existing residents; producing substantial new housing, both  
14 affordable and market-rate, and encouraging the rebuilding of the  
15 Alice Griffith Housing Development; incorporating environmental  
16 sustainability; encouraging the San Francisco Forty Niners to  
17 remain in San Francisco; and requiring the project to be financially  
18 sound, with or without a new stadium.

19 (k) This legislation is necessary for the successful redevelopment  
20 of the project area and to realize the resulting public benefits,  
21 including, but not limited to, the elimination of blight, the provision  
22 of affordable housing, the creation of new public open space, and  
23 increased public access to the waterfront. This legislation is also  
24 needed to improve the configuration of the public trust lands in  
25 furtherance of trust purposes.

26 (l) The existing configuration of trust and nontrust lands within  
27 the project area is such that the purposes of the public trust cannot  
28 be fully realized. A substantial portion of the reclaimed trust lands  
29 are interior lands that have been cut off from access to navigable  
30 waters, or are paper streets laid out in a grid pattern that is not  
31 useful to the trust. Most of these lands are no longer needed or  
32 required for the promotion of the public trust. Other lands within  
33 the project area adjacent to the waterfront or otherwise of high  
34 value to the public trust are currently not subject to the public trust.  
35 Absent a trust exchange, substantial portions of the lands within  
36 the shipyard that are located along the waterfront or are otherwise  
37 of high value to the public trust would be free of the public trust,  
38 would not be required to be put to uses consistent with the public  
39 trust, and could be cut off from public access. In addition, certain  
40 interior lands not useful for trust purposes would be restricted and

1 could not be used for residential or other nontrust uses essential  
2 to the redevelopment of the project area.

3 (m) A trust exchange resulting in the configuration of trust lands  
4 substantially similar to that depicted on the diagram in Section 25  
5 of this act maximizes the overall benefits to the trust, without  
6 interfering with trust uses or purposes. Following the exchange,  
7 the entire waterfront within the project area, as well as certain  
8 interior lands that have high trust values, will be subject to the  
9 public trust. The lands that will be removed from the trust pursuant  
10 to the exchange have been cut off from navigable waters, are no  
11 longer needed or required for the promotion of the public trust,  
12 and constitute a relatively small portion of the granted lands within  
13 the city. This act requires the commission to ensure that the lands  
14 added to the trust pursuant to the exchange are of equal or greater  
15 value than the lands taken out of the trust.

16 (n) Several historic buildings in the shipyard have been  
17 identified by the State Historic Preservation Officer as contributors  
18 to the Hunters Point Commercial Drydock Historic District. These  
19 contributor buildings convey a sense of the shipyard's early  
20 maritime history, enhance the open-space experience along the  
21 waterfront, and should be preserved and restored. Uses of the  
22 contributor buildings that support their preservation and restoration,  
23 but which are not otherwise consistent with the trust, may be  
24 authorized under certain conditions set forth in this act.

25 (o) The hillside open space provides substantial value to the  
26 trust as an open space and recreational resource affording  
27 exceptional views of San Francisco Bay and the waterfront. To  
28 protect the trust value of the hillside open-space area, it is important  
29 that significant view corridors to the waterfront be protected and  
30 adequate public access be provided in the manner set forth in this  
31 act.

32 (p) The state recreation area is presently in need of substantial  
33 improvement, restoration, and reconfiguration. A substantial  
34 portion of the park currently serves as a dual-use parking area for  
35 stadium events. In other areas, the park does not contain enough  
36 land adjacent to the shoreline to provide the desired level of public  
37 access. The park lacks needed improvements, and many of the  
38 improvements that do exist are in a state of disrepair. Proposition  
39 G calls for improving and restoring the state recreation area,  
40 including enhancing access to the waterfront for public use,

1 providing views of San Francisco Bay, and extending the Bay Trail  
2 system through the park. This act authorizes the department to  
3 enter into an agreement for the transfer of state recreation area  
4 lands to the agency or the city in exchange for other lands, park  
5 improvements, or other consideration, provided the agreement will  
6 result in an overall benefit to the park and meets the other  
7 requirements of this act regarding the transfer of state recreation  
8 area lands.

9 (q) This legislation advances the statewide purposes of the  
10 Community Redevelopment Law and the public trust, and is in  
11 the best interests of the people of this state.

12 SEC. 3. Section 5006.8 of the Public Resources Code is  
13 repealed.

14 ~~5006.8.—(a) For purposes of this section, the following~~  
15 ~~definitions shall apply:~~

16 (1) ~~“City” means the City and County of San Francisco.~~

17 (2) ~~“Project” means the development of a combination of uses,~~  
18 ~~such as a stadium, retail and entertainment center, and associated~~  
19 ~~support uses, including parking, approved by the voters of the city~~  
20 ~~by Propositions D and F at the June 3, 1997, special election.~~

21 (3) ~~“Project area” means the total area necessary for the project~~  
22 ~~as shown on the site diagram.~~

23 (4) ~~“Recreation area” means the Candlestick State Recreation~~  
24 ~~Area.~~

25 (5) ~~“Site diagram” means that certain preliminary conceptual~~  
26 ~~site drawing, dated July 22, 1998, on file with the Department of~~  
27 ~~City Planning of the city, showing, for reference purposes only,~~  
28 ~~the project area, including the proposed location of the new ring~~  
29 ~~road, the area within the inner circumference of the new ring~~  
30 ~~road for permanent public parking use, and the area outside the outer~~  
31 ~~circumference of the new ring road for temporary or intermittent~~  
32 ~~public parking use on state property. For purposes of this section,~~  
33 ~~the final site diagram for the project area, which shall supersede~~  
34 ~~any preliminary site diagrams, shall be subject to the approval of~~  
35 ~~the department and the State Lands Commission.~~

36 (6) ~~“State property” means the property or interests in property~~  
37 ~~owned by the state located within the project area. A portion of~~  
38 ~~the state property is proprietary land under the jurisdiction of the~~  
39 ~~Department of Parks and Recreation and the remainder of the state~~

1 property is sovereign land under the jurisdiction of the State Lands  
2 Commission.

3 ~~(b) Notwithstanding any other provision of law, the director~~  
4 ~~may enter into agreements, on those terms and conditions that the~~  
5 ~~director determines to be in the best interests of the state,~~  
6 ~~concerning the development and operation of the project. The~~  
7 ~~agreements may provide for, without limitation, easements,~~  
8 ~~exchanges, quit claims, leases, operating agreements, special use~~  
9 ~~permits, or agreements for the conveyance of fee title of any~~  
10 ~~property interests of the department within the recreation area. The~~  
11 ~~department shall receive at least fair market value for the property~~  
12 ~~interests conveyed by the department. The department may execute~~  
13 ~~leases, operating agreements, and special use permits regarding~~  
14 ~~proprietary lands within the state property for terms not exceeding~~  
15 ~~66 years. The director may change the boundaries of the recreation~~  
16 ~~area as necessary to reflect the agreements contemplated by this~~  
17 ~~section.~~

18 ~~(c) Notwithstanding any other provision of law, the State Lands~~  
19 ~~Commission may enter into agreements regarding any sovereign~~  
20 ~~lands within the state property, on those terms and conditions that~~  
21 ~~the State Lands Commission determines to be in the best interests~~  
22 ~~of the state, concerning the development and operation of the~~  
23 ~~project. Subject to applicable requirements of the public trust for~~  
24 ~~commerce, navigation, and fisheries, the agreements may provide,~~  
25 ~~without limitation, for leases, operating agreements, and, to the~~  
26 ~~extent permitted under paragraph (1) or (2), sale or exchange~~  
27 ~~agreements of all or any portion of state property. Those leases~~  
28 ~~shall be for a term not exceeding 66 years. Any land or interest in~~  
29 ~~land received in an exchange shall have a value that is equal to or~~  
30 ~~greater than the value of the property interest conveyed by the~~  
31 ~~State Lands Commission. In furtherance of the foregoing:~~

32 ~~(1) The State Lands Commission may enter into agreements,~~  
33 ~~including agreements providing for termination of the public trust~~  
34 ~~or the termination of any trust imposed by Chapter 1333 of the~~  
35 ~~Statutes of 1968, as amended, or both, for the exchange of trust~~  
36 ~~land within the project area whereby any of the lands that are~~  
37 ~~subject to the trust may be exchanged for other land inside or~~  
38 ~~outside the project area that is at least equal or greater in value,~~  
39 ~~which is useful for trust purposes, and that is in a location approved~~  
40 ~~by the State Lands Commission, if the findings set forth in Section~~

1 ~~5 of Chapter 310 of the Statutes of 1987 are made, or, for those~~  
2 ~~lands that are not included in Chapter 1333 of the Statutes of 1968,~~  
3 ~~as amended, if the requirements of Section 6307 are satisfied.~~

4 ~~(2) For purposes of Section 3 of Article X of the California~~  
5 ~~Constitution, the Legislature hereby finds and declares that~~  
6 ~~tidelands within the project area that were reserved to the state~~  
7 ~~solely for street purposes and that, as found by the State Lands~~  
8 ~~Commission, meet each of the criteria set forth in subparagraphs~~  
9 ~~(A) to (E), inclusive, are no longer useful for navigation purposes~~  
10 ~~and are not necessary for those purposes, and may be sold by the~~  
11 ~~State Lands Commission, to the city, free of the public trust or any~~  
12 ~~trust imposed by Chapter 1333 of the Statutes of 1968, as amended,~~  
13 ~~or both. Before any reserved street areas within the project area~~  
14 ~~may be sold, the State Lands Commission shall make all of the~~  
15 ~~following findings regarding reserved street areas proposed for~~  
16 ~~sale:~~

17 ~~(A) The area has been filled and reclaimed.~~

18 ~~(B) The area is located within the outer circumference of the~~  
19 ~~ring road for the project, as shown on the site diagram.~~

20 ~~(C) The area is no longer needed or required for promotion of~~  
21 ~~the public trust for commerce, navigation, and fisheries.~~

22 ~~(D) The state will receive consideration for the sale of the street~~  
23 ~~area that is equal to or greater in value than the value of the street~~  
24 ~~areas sold.~~

25 ~~(3) In any case in which the state, pursuant to this section,~~  
26 ~~conveys filled tidelands or submerged lands to the city, the state~~  
27 ~~shall reserve all minerals and all mineral rights in the lands of~~  
28 ~~every kind and character now known to exist or hereafter~~  
29 ~~discovered, including, but not limited to, oil and gas and rights~~  
30 ~~thereto, together with the sole, exclusive, and perpetual right to~~  
31 ~~explore for, remove, and dispose of those minerals by any means~~  
32 ~~or methods suitable to the state or to its successors and assignees,~~  
33 ~~except that, notwithstanding Chapter 1333 of the Statutes of 1968,~~  
34 ~~as amended, or Section 6401, this reservation shall not include the~~  
35 ~~right of the state or its successors or assignees in connection with~~  
36 ~~any mineral exploration, removal, or disposal activity, to do either~~  
37 ~~of the following:~~

38 ~~(A) Enter upon, use, or damage the surface of the lands or~~  
39 ~~interfere with the use of the surface by any grantee or by the~~  
40 ~~grantee's successors or assignees.~~

1 ~~(B) Conduct any mining activities of any nature whatsoever~~  
2 ~~above a plane located 500 feet below the surface of the lands~~  
3 ~~without the prior written permission of any grantee of the lands or~~  
4 ~~the grantee's successors or assignees.~~

5 ~~(4) With respect to any filled tidelands or submerged lands~~  
6 ~~conveyed to the city pursuant to Chapter 2 of the Statutes of 1958,~~  
7 ~~First Extraordinary Session, the state shall comply with the~~  
8 ~~limitations on any mineral rights reservations provided for in~~  
9 ~~paragraph (3), and shall modify the instruments reserving those~~  
10 ~~mineral rights reservations, as appropriate, to memorialize those~~  
11 ~~limitations.~~

12 ~~(d) The property interests in the state property to be conveyed~~  
13 ~~to the city pursuant to the authorizations contained in subdivisions~~  
14 ~~(b) and (c) shall be subject to the following additional limitations:~~

15 ~~(1) No more than 20 acres of the state property may be paved~~  
16 ~~or otherwise used as permanent parking for the project.~~

17 ~~(2) No more than 60 acres of state property may be used for~~  
18 ~~intermittent public parking for football games and a limited number~~  
19 ~~of other special events related to the project, and for all other days~~  
20 ~~of the year, that state property shall be available to the public for~~  
21 ~~recreation purposes. Any agreements related to parking for the~~  
22 ~~project on state property north of Yosemite Slough shall terminate~~  
23 ~~no later than January 31, 2004.~~

24 ~~(3) The consideration for those property interests may consist~~  
25 ~~of any of the following:~~

26 ~~(A) Monetary consideration.~~

27 ~~(B) Improvements to the recreation area that support its use as~~  
28 ~~a public park.~~

29 ~~(C) Replacement of any portion of the recreation area conveyed~~  
30 ~~to the city with recreation benefits or facilities of equal or greater~~  
31 ~~value within the recreation area.~~

32 ~~(D) Other nonmonetary consideration, including, but not limited~~  
33 ~~to, relinquishment by the city of its reversionary rights over parcels~~  
34 ~~conveyed to the state in 1983 for formation of the recreation area.~~

35 ~~(E) Any combination of the foregoing.~~

36 ~~(e) All state agencies shall take any necessary or appropriate~~  
37 ~~action to implement this section in a timely manner.~~

38 SEC. 4. Chapter 464 of the Statutes of 2002, The Hunters Point  
39 Shipyard Conversion Act of 2002, as amended by Chapter 435 of  
40 the Statutes of 2003, is repealed.

1 SEC. 5. Chapter 435 of the Statutes of 2003, The Hunters Point  
2 Shipyard Public Trust Exchange Act, is repealed.

3 SEC. 6. (a) All of the state's right, title, and interest, acquired  
4 by virtue of its sovereignty, in any trust lands in which the agency  
5 holds or acquires fee title, is hereby granted to and vested in the  
6 agency, subject to the public trust and the terms and conditions of  
7 this act.

8 (b) Upon conveyance by the federal government to the agency  
9 of any piers or other appurtenances located in part on Hunters  
10 Point submerged lands, the grant of the state's right, title, and  
11 interest in the Hunters Point submerged lands to the city pursuant  
12 to the Burton Act shall be revoked, and all of the state's right, title,  
13 and interest in those lands shall be granted to and vested in the  
14 agency, subject to the public trust and the terms and conditions of  
15 this act.

16 (c) The agency shall hold the trust lands in trust for the benefit  
17 of all the people of the state for purposes of commerce, navigation,  
18 and fisheries, and for other public trust purposes, subject to the  
19 terms and conditions of this act. Any trust lands held by the agency  
20 pursuant to this act shall not be subject to the Burton Act trust.

21 SEC. 7. Notwithstanding Section 6359 of the Public Resources  
22 Code or any other provision of law, the grant of trust lands to the  
23 agency pursuant to this act shall be deemed effective as follows:

24 (a) On January 1, 2010, with respect to trust lands owned by  
25 the agency on that date.

26 (b) With respect to trust lands acquired by the agency after  
27 January 1, 2010, upon the agency's acquisition of those lands.

28 (c) With respect to the Hunters Point submerged lands, upon  
29 conveyance by the federal government to the agency of any piers  
30 or other appurtenances located in part on the Hunters Point  
31 submerged lands.

32 SEC. 8. (a) The agency may use, conduct, operate, maintain,  
33 manage, administer, regulate, improve, lease, and control the trust  
34 lands and do all things necessary in connection with that authority  
35 that conform with the terms of this act and the public trust. Except  
36 as provided in this act, the agency shall use the trust lands only in  
37 a manner that is consistent with, necessary and convenient for, or  
38 incidental or ancillary to, the purposes of the public trust.

39 (b) In the management, conduct, operation, and control of the  
40 trust lands, or any improvements, betterments, or structures on the

1 trust lands, the agency shall make no discrimination in rates, tolls,  
2 or charges for a use or service in connection with that management.

3 SEC. 9. The agency shall not grant, convey, give, or alienate  
4 the trust lands, or any part of the lands, to an individual, firm, or  
5 corporation for any purpose, except as provided in this act or as  
6 otherwise provided by statute.

7 SEC. 10. There is reserved in the people of the state the right  
8 to hunt and fish in and over the waters on the trust lands, together  
9 with the right of convenient access to the waters over the trust  
10 lands for those purposes.

11 SEC. 11. The state shall reserve from the grant made in Section  
12 6 of this act, and from any other conveyance pursuant to this act  
13 of the state's interest, or any portion of the state's interest, in any  
14 lands, all minerals and all mineral rights in the lands of every kind  
15 and character now known to exist or hereafter discovered,  
16 including, but not limited to, oil and gas and rights, together with  
17 the sole, exclusive, and perpetual right to explore for, remove, and  
18 dispose of those minerals by any means or methods suitable to the  
19 state or to its successors and assignees, except that, notwithstanding  
20 the Burton Act or Section 6401 of the Public Resources Code, this  
21 reservation shall not include the right of the state or its successors  
22 or assignees in connection with any mineral exploration, removal,  
23 or disposal activity, to do either of the following:

24 (a) Enter upon, use, or damage the surface of the lands or  
25 interfere with the use of the surface by a grantee or by the grantee's  
26 successors or assignees. However, a lease, franchise, permit, or  
27 license of the property shall contain a provision specifying at least  
28 one point from which, and the manner in which, the right of ingress  
29 or egress to the subsurface deposits may be exercised, which point  
30 or points may be outside the area of the leasehold, franchise,  
31 permit, or license, as long as the point or points are adequate to  
32 permit the rights reserved to the state to be exercised.

33 (b) Conduct any mining activities of any nature whatsoever  
34 above a plane located 500 feet below the surface of the lands  
35 without the prior written permission of a grantee of the lands or  
36 the grantee's successors or assignees.

37 SEC. 12. The state has the right to use, without charge, any  
38 transportation, land or storage improvements, wharves, docks,  
39 piers, slips, quays, or other improvements constructed upon the

1 trust lands, for a vessel or other watercraft, aircraft, or railroad  
2 owned or operated by the state.

3 SEC. 13. (a) The state reserves the right to amend, modify, or  
4 revoke any and all rights in the trust lands granted to the agency  
5 under this act.

6 (b) No amendment or revocation, in whole or in part, of the  
7 granted rights in the trust lands shall impair or affect the rights or  
8 obligations of third parties, including debt, security, or bond  
9 holders, lessees, lenders for value, and holders of contracts  
10 conferring the right to the use or occupation of, or the right to  
11 conduct operations upon or within, the trust lands, arising from  
12 leases, contracts, or other instruments lawfully entered into prior  
13 to the effective date of the amendment or revocation. For purposes  
14 of this section, the term “bonds” includes, without limitation, tax  
15 increment bonds, revenue bonds, certificates of participation, and  
16 any other bonds or forms of indebtedness secured by or payable  
17 from, in whole or in part, revenues derived from trust lands.

18 (c) If a lease, contract, or other instrument described in  
19 subdivision (b) is in effect on the effective date of an amendment  
20 or revocation, the state, at its option exercised by and through the  
21 commission, may succeed to the agency’s interest in the lease,  
22 contract, or instrument. Otherwise, the agency’s interest in the  
23 instrument, property, and revenue shall continue during the term  
24 or other period during which the instrument shall remain in effect.  
25 An action taken by the state shall not cause the agency to breach  
26 or default under a lease, contract, or instrument in effect on the  
27 effective date of an amendment or a revocation. All bonds or  
28 securities issued by the agency and payable out of revenues from  
29 the trust lands shall continue to be so payable, directly or indirectly,  
30 and secured in all respects as provided in the proceedings for their  
31 issuance, and the revenues of the trust lands shall be pledged and  
32 applied to the payment of the bonds or securities in all respects as  
33 though no amendment or revocation had taken place.

34 SEC. 14. The agency may grant franchises, permits, privileges,  
35 licenses, easements, or leasehold interests (leases) in connection  
36 with the trust lands, or any part of the trust lands, each for a term  
37 not exceeding 66 years. A lease of the trust lands shall be solely  
38 for uses that are consistent with, necessary and convenient for, or  
39 incidental or ancillary to, the purposes of the public trust, except

1 that a lease may be entered into for other uses if the agency has  
2 made all of the following determinations:

3 (a) There is no immediate trust-related need for the property  
4 proposed to be leased.

5 (b) The proposed lease is of a duration of no more than five  
6 years and can be terminated in favor of trust uses as they arise.

7 (c) The proposed lease prohibits the construction of new  
8 structures or improvements on the subject property that, as a  
9 practical matter, could prevent or inhibit the property from being  
10 converted to a permissible trust use if necessary.

11 (d) The proposed use of the leased property would not interfere  
12 with commerce, navigation, fisheries, or any other existing trust  
13 use or purpose.

14 SEC. 15. (a) Notwithstanding any other provision of this act  
15 or the Burton Act, the buildings, or any portion of a building,  
16 identified by the State Historic Preservation Officer as contributors  
17 to the Hunters Point Commercial Drydock Historic District,  
18 commonly known as the Gatehouse (Building 204), Pumphouse  
19 2 (Building 205), Pumphouse 3 (Building 140), and the Tool and  
20 Paint Building (Building 207), may be used or leased for purposes  
21 not otherwise consistent with the public trust, provided the trustee  
22 makes a finding that there are no trust uses available that would  
23 allow for the restoration and preservation of the space. A lease  
24 renewal, extension, or granting of a new lease for a nontrust  
25 purpose shall require a new finding that no trust uses are then  
26 available that would allow for the restoration and preservation of  
27 the building, or a part of it.

28 (b) If a building described in subdivision (a) is used for a  
29 nontrust purpose, and is remodeled, renovated, or used in a manner  
30 that is inconsistent with the Secretary of the Interior's Standards  
31 for the Treatment of Historic Properties with Guidelines for  
32 Preserving, Rehabilitating, Restoring and Reconstructing Historic  
33 Buildings, the building shall be put to a public trust use from the  
34 commencement of the inconsistent remodel, renovation, or use,  
35 unless the continued nontrust use is authorized to continue under  
36 Section 14 of this act, if the agency is the trustee, or under the  
37 Burton Act, if the city is the trustee.

38 (c) If a building described in subdivision (a) is demolished,  
39 subsequent use of the land and a replacement structure shall be  
40 consistent with the public trust and the applicable statutory trust.

1 SEC. 16. (a) The agency shall deposit all moneys collected  
2 by the agency arising out of the use or operation of any of the trust  
3 lands, including all revenues derived from leases or other rights  
4 to use or occupy the lands, into a special fund maintained by the  
5 agency. The agency shall use the money in or belonging to the  
6 fund only for uses and purposes consistent with the public trust  
7 and the requirements of this act.

8 (b) The agency shall prepare an annual statement of financial  
9 conditions and operations and submit it to the commission each  
10 year on or before October 1. The statement shall include a  
11 statement of all revenues and expenditures related to trust lands  
12 and trust assets, including obligations incurred, but not yet paid.

13 SEC. 17. (a) The agency may exchange portions of the trust  
14 lands with a state agency, political subdivision, person, entity, or  
15 corporation, or the United States or a political subdivision of the  
16 United States, for other lands, if the agency determines, and the  
17 commission adopts a resolution finding and declaring, all of the  
18 following:

19 (1) The portions of the trust lands to be exchanged have been  
20 filled and reclaimed, are cut off from access to the waters of San  
21 Francisco Bay, are no longer needed or required for the promotion  
22 of the public trust for commerce, navigation, and fisheries, and  
23 constitute a relatively small portion of the granted lands within the  
24 city.

25 (2) The lands to be acquired by the agency have a value equal  
26 to or greater than the value of the lands for which they are to be  
27 exchanged and are useful for the particular trust purposes  
28 authorized by this act.

29 (3) No substantial interference with trust uses and purposes will  
30 ensue by virtue of the exchange.

31 (b) Upon adoption of the resolution by the commission, the  
32 lands conveyed by the agency shall be free from the public trust,  
33 and the lands received by the agency in exchange shall be held  
34 subject to the public trust and to the terms of this act.

35 (c) The exchange authority granted by this section shall be in  
36 addition to, and shall not operate as a limitation on, the exchange  
37 authority granted by Sections 20 to 25, inclusive, of this act.

38 SEC. 18. Upon written agreement between the agency and the  
39 city, acting by and through its Port Commission, the agency may  
40 transfer to the city some or all of the trust lands in which the agency

1 holds fee title, provided that the commission has approved the  
2 transfer, or the transfer is solely for purposes of street, utility, or  
3 public right-of-way dedication. All of the right, title, and interest  
4 granted to the agency under this act in any lands transferred to the  
5 city under this section shall, upon transfer, be granted to and vest  
6 in the city. The city shall hold the transferred lands subject to the  
7 public trust and shall assume authority as trustee over those lands.  
8 Lands transferred to the city pursuant to this section shall be subject  
9 to the Burton Act trust and shall cease to be subject to the terms  
10 and conditions of this act, except that Section 15 of this act shall  
11 remain applicable to those lands. Nothing in this section shall  
12 preclude the city from including trust lands held by the city as part  
13 of an exchange authorized by this act.

14 SEC. 19. Notwithstanding the Burton Act or any other  
15 provision of law, upon approval by the commission, the city may  
16 transfer to the agency some or all of the Burton Act lands. All of  
17 the right, title, and interest granted to the city under the Burton  
18 Act in any lands transferred to the agency under this section shall,  
19 upon transfer, be granted to and vest in the agency. The agency  
20 shall hold the transferred lands subject to the public trust and the  
21 requirements of this act, and shall assume authority as trust  
22 administrator over those lands. Lands transferred to the agency  
23 under this section shall cease to be subject to the Burton Act trust.

24 SEC. 20. The Legislature hereby approves an exchange of  
25 public trust lands within the project area, whereby certain trust  
26 lands that meet the criteria set forth in this act and therefore are  
27 not now useful for public trust purposes will be freed from the  
28 public trust and of the associated restrictions on use and alienation,  
29 and certain other lands that are not now public trust lands and that  
30 are useful for public trust purposes will be made subject to the  
31 public trust, provided all of the following conditions are met:

32 (a) The exchange results in a configuration of trust lands  
33 substantially similar to that shown on the diagram in Section 25  
34 of this act.

35 (b) The lands to be subject to the public trust are configured so  
36 as to be accessible from the streets as finally configured in the  
37 project area.

38 (c) The exchange otherwise complies with the requirements of  
39 this act.

1 (d) The exchange is consistent with and furthers the purposes  
2 of the public trust and this act.

3 SEC. 21. All lands exchanged into the trust under this act shall  
4 be held by the trustee subject to the public trust and the applicable  
5 statutory trust, and all lands exchanged out of the trust under this  
6 section shall be free of the public trust and the applicable statutory  
7 trust.

8 SEC. 22. The precise boundaries of the lands to be taken out  
9 of the trust and the lands to be put into the trust pursuant to the  
10 exchange shall be determined by the trustee or trustees with  
11 authority over the lands to be exchanged, subject to the approval  
12 of the commission. The commission is authorized to settle by  
13 agreement with the trustees any disputes as to the location of the  
14 mean high tide line in its last natural state, the boundaries of  
15 tidelands conveyed into private ownership pursuant to various  
16 statutes, and any other boundary lines which the commission deems  
17 necessary to effectuate the exchange.

18 SEC. 23. (a) The commission is authorized to approve an  
19 exchange of public trust lands within the project area that meets  
20 the requirements of this act. Pursuant to this authority, the  
21 commission shall establish appropriate procedures for effectuating  
22 the exchange. The procedures shall include provisions for ensuring  
23 that lands are not exchanged into the trust until either of the  
24 following has occurred:

25 (1) All remedial action necessary to protect human health and  
26 the environment with respect to the hazardous substances on the  
27 land has been completed as determined by the United States  
28 Environmental Protection Agency, the California Department of  
29 Toxics Substances Control, and the regional water quality control  
30 board, pursuant to the Federal Facilities Agreement for the shipyard  
31 dated January 22, 1992, as amended, and the United States has  
32 provided a warranty in accordance with Section 9620(h)(3)(A) of  
33 Title 42 of the United States Code.

34 (2) The United States has obtained a warranty deferral, approved  
35 by the Governor in accordance with Section 9620(h)(3)(C) of Title  
36 42 of the United States Code, involving land for which the  
37 commission has determined to execute a certificate of acceptance  
38 of title.

39 (b) The commission may not approve the exchange of any trust  
40 lands unless it finds all of the following:

1 (1) The configuration of trust lands within the project area upon  
2 completion of the exchange is substantially similar to the  
3 configuration shown on the diagram in Section 25 of this act,  
4 includes all lands within the project area that are presently below  
5 mean high tide, and consists of lands suitable to be impressed with  
6 the public trust.

7 (2) The final layout of streets in the project area will provide  
8 access to the public trust lands and be consistent with the beneficial  
9 use of the public trust lands.

10 (3) The value of the lands to be exchanged into the trust is equal  
11 to or greater than the value of the lands to be exchanged out of the  
12 trust. In determining the value of these lands, the commission may  
13 take into consideration the degree of uncertainty, if any, as to  
14 whether the lands remain subject to the trust or have been freed  
15 from the trust.

16 (4) The lands to be taken out of the trust have been filled and  
17 reclaimed, are cut off from access to navigable waters, are no  
18 longer needed or required for the promotion of the public trust,  
19 and constitute a relatively small portion of the lands granted by  
20 the state within the city, and the exchange will not result in  
21 substantial interference with trust uses and purposes.

22 (5) Each trustee and a state agency, which owns or will own fee  
23 title in any of the lands to be exchanged, has approved the  
24 exchange.

25 (c) The commission may impose additional conditions on the  
26 exchange authorized by this act if the commission determines that  
27 these conditions are necessary to protect the public trust. At a  
28 minimum, the commission shall ensure all of the following:

29 (1) The streets and other transportation facilities located on trust  
30 lands are designed to be compatible with the public trust.

31 (2) The trust values of the hillside open space are preserved. To  
32 this end, the commission shall ensure all of the following:

33 (A) The final trust configuration maintains reasonable public  
34 pedestrian and vehicular access between the hillside open space  
35 and the waterfront, and in addition, between the top of the hillside  
36 open space and other areas of the city.

37 (B) View corridors are maintained and protected so that visitors  
38 to the hillside open space can enjoy substantial vistas of San  
39 Francisco Bay.

1 (C) Direct vehicular and pedestrian access from the lower  
2 portions of the shipyard to the top of the hillside open space area  
3 is provided.

4 (D) No liability to owners of adjacent upslope property, for  
5 subjacent support or otherwise, is created by virtue of the trustee's  
6 taking title to the hillside open space.

7 (E) No moneys from the trust fund described in Section 16 of  
8 this act may be used to provide direct benefit to the residential  
9 development or to other uses of the nontrust portion of the hilltop  
10 area adjacent to the hillside open space, or to offset or mitigate  
11 impacts caused by those uses.

12 (F) Street parking on the parkway adjacent to the top of the  
13 hillside open space may not be restricted for residential parking  
14 and shall remain accessible to the public for regional use. In  
15 addition, adequate parking areas accessible to the public to support  
16 regional use of the hillside open space shall be dedicated in an area  
17 adjacent to the lower portion of the hillside open space.

18 (d) For purposes of effectuating the exchange authorized by this  
19 section, the commission is authorized to do all of the following:

20 (1) Receive and accept on behalf of the state any lands or interest  
21 in lands conveyed to the state by the parties to the exchange  
22 agreement, including lands that are now and that will remain  
23 subject to the public trust.

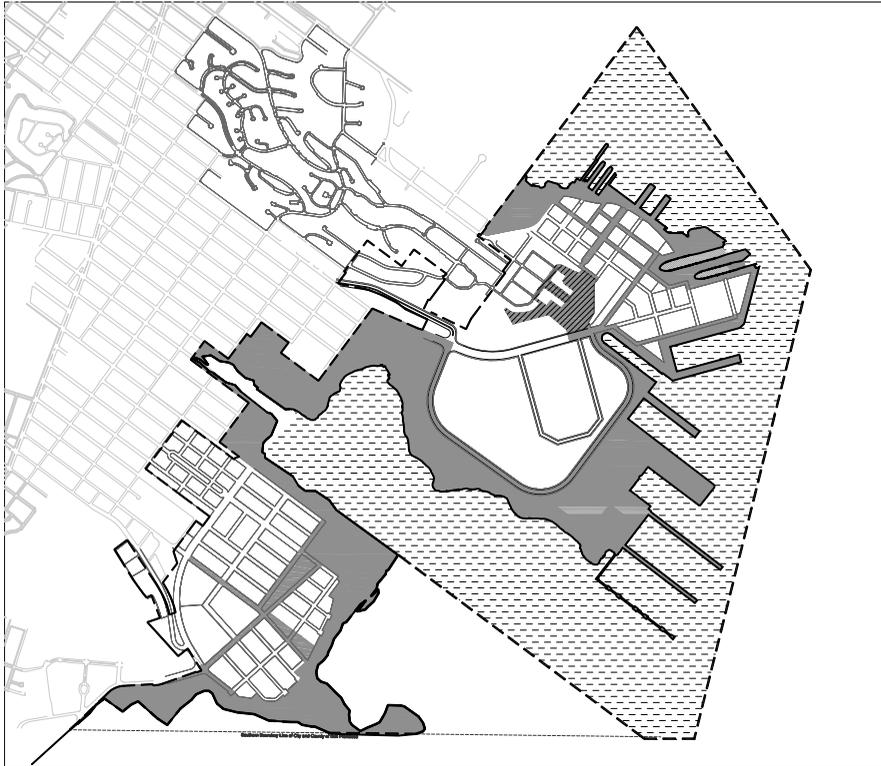
24 (2) Convey by patent all of the right, title, and interest of the  
25 state in lands that are to be free of the public trust upon completion  
26 of an exchange of lands as authorized by this act and as approved  
27 by the commission.

28 (3) Convey to the trustee or trustees by patent all of the right,  
29 title, and interest of the state in lands that are to be subject to the  
30 public trust and the terms of this act or the Burton Act trust upon  
31 completion of an exchange of lands as authorized by this act and  
32 as approved by the commission, subject to the terms, conditions,  
33 and reservations as the commission may determine are necessary  
34 to meet the requirements of this act.

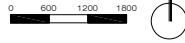
35 (e) Nothing in this act shall be construed as conditioning or  
36 otherwise limiting the authority of the state, the city, or the agency  
37 from undertaking a public trust exchange or other conveyance  
38 authorized by any other provision of law, including, but not limited  
39 to, Section 17 of this act.

1 SEC. 24. An exchange of public trust land pursuant to Section  
2 21 of this act may proceed in multiple phases, provided that with  
3 respect to each phase, the commission, in addition to the findings  
4 required by Section 23 of this act, finds both of the following:  
5 (a) The cumulative value of all of the lands exchanged into the  
6 trust in the current and previous phases is equal to or greater than  
7 the cumulative value of all of the lands exchanged out of the trust  
8 in the current and previous phases. For purposes of calculating the  
9 value of any lands added to or removed from the trust in an earlier  
10 phase of the exchange, the commission shall utilize the value of  
11 those lands as determined by the commission at the time of the  
12 commission's approval of the earlier phase, adjusted for inflation  
13 in a manner approved by the commission.  
14 (b) The lands exchanged into the trust at each phase are  
15 configured in a way that furthers the purposes of the overall  
16 exchange, including, but not limited to, having access to streets as  
17 finally configured in the project area.  
18 SEC. 25. The following diagram is a part of this act:

HUNTERS POINT SHIPYARD / CANDLESTICK POINT  
PUBLIC TRUST EXCHANGE



-  LANDS SUBJECT TO THE PUBLIC TRUST UPON COMPLETION OF THE EXCHANGE
-  "HILLSIDE OPEN SPACE" SUBJECT TO THE PUBLIC TRUST UPON COMPLETION OF THE EXCHANGE
-  SUBMERGED LANDS SUBJECT TO THE PUBLIC TRUST UPON COMPLETION OF THE EXCHANGE
-  PROJECT AREA
-  APPROXIMATE SHORELINE / PIERS



1 SEC. 26. (a) Notwithstanding any other provision of law, the  
2 director may enter into an agreement to transfer to the agency or  
3 the city an interest in a state property held by the department within  
4 the state recreation area, provided that the director makes in writing  
5 all of the following findings:  
6 (1) The department shall receive consideration equivalent to  
7 the fair market value of any property interests it conveys, as  
8 provided in subdivision (c).  
9 (2) The agreement shall provide benefits to the state recreation  
10 area.  
11 (3) Any lands in which the state’s sovereign interests are to be  
12 conveyed shall be freed of the public trust, or shall be held by the  
13 agency or the city subject to the public trust, pursuant to an  
14 exchange agreement approved by the commission in accordance  
15 with this act.  
16 (4) The configuration of park lands following the exchange shall  
17 be substantially similar to that shown on the diagram included as  
18 Section 27 of this act. If, at the time the exchange agreement is  
19 entered into, the agency has not acquired title to any portion of the  
20 lands within the shipyard that are to be exchanged into the state  
21 recreation area, the director may find that the requirements of this  
22 paragraph are met with respect to those lands if the agreement  
23 obligates the agency to transfer the lands to the department  
24 following the agency’s acquisition of the lands, and the other  
25 consideration received by the department meets the requirements  
26 of paragraph (1) and subdivision (c).  
27 (b) The director shall modify the boundaries of the state  
28 recreation area as necessary to reflect any conveyances made  
29 pursuant to this section.  
30 (c) The consideration for state property transferred pursuant to  
31 subdivision (a) may consist of any of the following, or any  
32 combination thereof:  
33 (1) Monetary consideration, which shall be dedicated and used  
34 for improvement, maintenance, or operation of the state recreation  
35 area.  
36 (2) The cost of improvements to the state recreation area that  
37 enhance its use as a public park.  
38 (3) Provisions for future revenue to fund the operation and  
39 maintenance for all or part of the state recreation area.

1 (4) Other nonmonetary consideration, including, but not limited  
2 to, relinquishment of the city reversionary interest.

3 (5) Land within the project area to be added to the state  
4 recreation area.

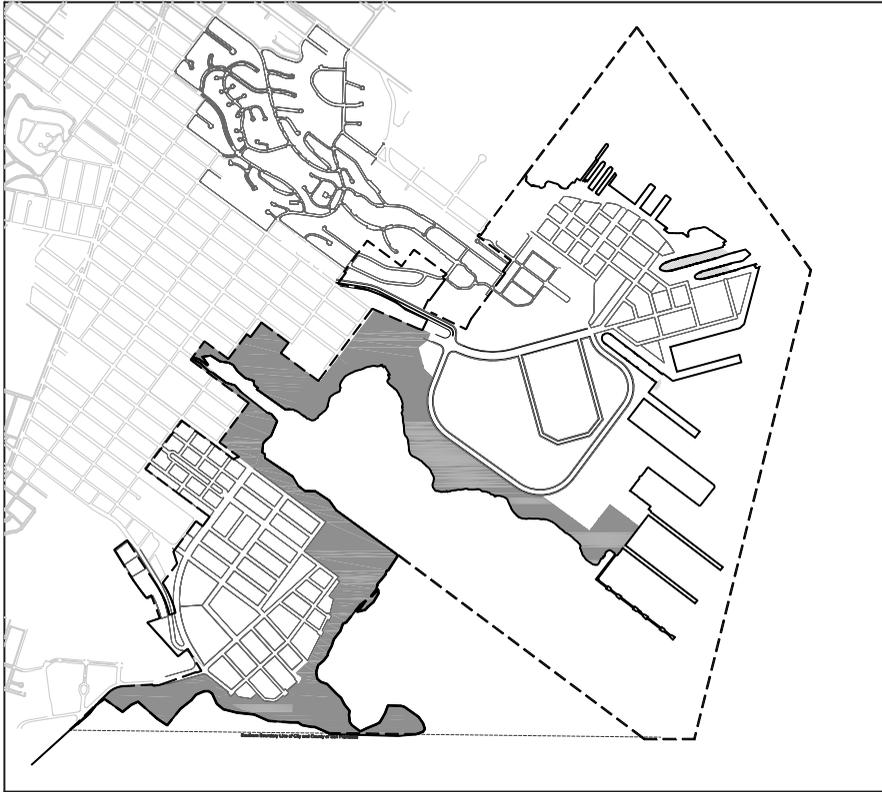
5 (d) Notwithstanding any other provision of law, the director  
6 may acquire or transfer on behalf of the department real property  
7 pursuant to the agreement authorized by this section, provided that  
8 the other requirements of this section are met, and the fair market  
9 value of any real property acquired or transferred has been  
10 determined by an appraisal prepared by the commission, the Real  
11 Estate Services Division of the Department of General Services,  
12 or an independent appraiser certified by the Office of Real Estate  
13 Appraisers pursuant to Part 3 (commencing with Section 11300)  
14 of Division 4 of the Business and Professions Code.

15 (e) The agreement authorized by this section may be combined  
16 with a trust exchange agreement authorized by this act. For  
17 purposes of compliance with subdivision (d), the department may  
18 rely on an appraisal prepared in connection with a trust exchange  
19 authorized by this act.

20 (f) The requirements of this section shall govern an agreement  
21 entered into, or conveyance made pursuant to the agreement, and  
22 shall supersede any other provision of law pertaining to the  
23 department's authority to acquire or transfer real property, or to  
24 enter into an agreement to acquire or transfer real property,  
25 including, but not limited to, Article 1 (commencing with Section  
26 11000) of Chapter 1 of Part 1 of Division 3 of Title 2 of the  
27 Government Code, Part 11 (commencing with Section 15850) of  
28 Division 3 of Title 2 of the Government Code, and Chapter 1.695  
29 (commencing with Section 5096.500) of Division 5 of the Public  
30 Resources Code.

31 SEC. 27. The following diagram is a part of this act:

CANDLESTICK POINT STATE RECREATION AREA  
PARK LAND EXCHANGE



-  OPSRA LANDS FOLLOWING COMPLETION OF EXCHANGE
-  PROJECT AREA
-  APPROXIMATE SHORELINE / PIERS



1 SEC. 28. (a) The Legislature finds and declares that the project  
2 will further the important statewide interests in redevelopment, in  
3 the elimination of blight, and in the provision of affordable housing  
4 opportunities, and that the development of the project will further  
5 the statewide purposes reflected in Section 3 of the 1958 Act. The  
6 Legislature further finds and declares that it is necessary and in  
7 furtherance of important statewide interests for any restrictions or  
8 other encumbrances on title arising from Section 3 of the 1958  
9 Act to be eliminated so as to facilitate disposition of property  
10 within the project area in furtherance of development of the project.

11 (b) At the request of the city or the agency, the executive officer  
12 of the commission shall, on behalf of the state, reasonably  
13 cooperate with the requesting parties to cause to be prepared and  
14 recorded any necessary deeds, patents, agreements, or other  
15 instruments for the purpose of removing any deed restrictions or  
16 other encumbrances on title arising from Section 3 of the 1958  
17 Act.

18 SEC. 29. Section 3 of Chapter 2 of the Statutes of 1958 of the  
19 First Extraordinary Session is repealed.

20 ~~Sec. 3. The City and County of San Francisco, its successors,~~  
21 ~~and assigns, may use such streets and railway right-of-way for any~~  
22 ~~purpose of general statewide interest, including but not limited to~~  
23 ~~public parking, and may, for such purposes, reclaim or fill such~~  
24 ~~streets and railway right-of-way.~~

25 SEC. 30. An exchange or other agreement made pursuant to  
26 this act is hereby found to be of statewide significance and  
27 importance. Therefore, no ordinance, charter provision, or other  
28 provision of local law inconsistent with this act applies to that  
29 exchange or agreement.

30 SEC. 31. Nothing in this act may be construed to nullify the  
31 city or the agency's obligations for increasing, improving, and  
32 preserving the community's supply of low- and moderate-income  
33 housing imposed by the Community Redevelopment Law,  
34 including, but not limited to, the requirements of Sections 33334.2  
35 and 33413 of the Health and Safety Code.

36 SEC. 32. Nothing in this act may be construed to authorize the  
37 development of housing on public trust land.

38 SEC. 33. A deed, patent, agreement, or other instrument  
39 executed in furtherance of this act, or an action of the city, state,  
40 or agency, to approve the use, lease, or conveyance of a city, state,

1 or agency property subject to this act, or any portion thereof, or to  
2 approve project agreements, grant entitlements or permits, or issue  
3 bonds or other indebtedness in connection with the use and  
4 development of that property, shall be conclusively presumed to  
5 be valid unless held to be invalid in an appropriate proceeding in  
6 a court of competent jurisdiction to determine the validity of the  
7 agreement commenced within 60 days after the recording of the  
8 agreement.

9 SEC. 34. An action may be brought under Chapter 9  
10 (commencing with Section 860) of Title 10 of Part 2 of the Code  
11 of Civil Procedure to determine the legality and validity of a deed,  
12 patent, agreement, or other instrument executed in furtherance of  
13 or authorized by this act, or an action of the city to use, lease, or  
14 convey any property, or to approve project agreements, grant  
15 entitlements or permits, or issue bonds or other indebtedness in  
16 connection with the use and development of that property. Before  
17 the filing of an action, the Attorney General, the director, and the  
18 executive officer of the commission shall be provided written  
19 notice of the action and a copy of the complaint.

20 SEC. 35. If a provision of this act, or its application to a person,  
21 property, or circumstance, is held invalid by a court, the invalidity  
22 or inapplicability of that provision shall not affect any other  
23 provision of this act or the application of that provision to any  
24 other person, property, or circumstance, and the remaining portions  
25 of this act shall continue in full force and effect, unless enforcement  
26 of this act as so modified by and in response to that invalidation  
27 would be grossly inequitable under all of the circumstances, or  
28 would frustrate the fundamental purposes of this act.

29 SEC. 36. The Legislature finds and declares that, because of  
30 the unique circumstances applicable only to the lands described  
31 in this act, a statute of general applicability cannot be enacted  
32 within the meaning of subdivision (b) of Section 16 of Article IV  
33 of the California Constitution. Therefore, this special statute is  
34 necessary.

35 SEC. 37. No reimbursement is required by this act pursuant to  
36 Section 6 of Article XIII B of the California Constitution because  
37 the only costs that may be incurred by a local agency or school  
38 district are the result of a program for which legislative authority  
39 was requested by that local agency or school district, within the

1 meaning of Section 17556 of the Government Code and Section  
2 6 of Article XIII B of the California Constitution.

O