

AMENDED IN ASSEMBLY APRIL 26, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 982

Introduced by Assembly Member Skinner

February 18, 2011

~~An act to add Chapter 13 (commencing with Section 25990) to the~~
An act to repeal and add Division 7.7 (commencing with Section 8700)
~~of the Public Resources Code, relating to energy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 982, as amended, Skinner. Energy: ~~Solar Energy Parks Program.~~
land exchange for renewable energy-related projects.

The School Land Bank Act vests the State Lands Commission, as a trustee, with the exclusive jurisdiction and authority the School Land Bank Fund and interest in land acquired pursuant to that act. The act authorizes the commission, acting as a trustee, to acquire interest in real property for the purposes of facilitating the management of school lands to generate income.

This bill would require the commission to make best efforts to enter into a memorandum of agreement by April 1, 2012, with the United States Secretary of the Interior to facilitate land exchanges consolidating school land parcels into contiguous holdings for renewable energy-related projects. The bill would require the commission, by January 1 of each year, to report to the Legislature on the status of the memorandum of agreement and school land consolidation efforts for renewable energy-related projects.

~~Existing law, with respect to the California Solar Initiative, requires the State Energy Resources Conservation and Development Commission (Energy Commission), in consultation with the Public Utilities~~

Commission, local publicly owned electric utilities, and interested members of the public, to establish eligibility criteria for solar energy systems receiving ratepayer funded incentives.

This bill would enact the Solar Energy Parks Act that would establish a program for solar energy parks on state lands for the advancement, development, assessment, and installation of commercial concentrating solar power energy systems. The bill would require the Energy Commission, in consultation with the State Lands Commission and the Public Utilities Commission, to determine lands that are suitable for the installation of concentrating solar power energy systems based on specified criteria.

This bill would require the Energy Commission, in consultation with the State Lands Commission, to consult with the United States Secretary of the Interior for possible exchange of lands to be used in the program, and to establish criteria for application processes for project developers of the solar energy parks. The bill would establish a rental fee for a commercial solar energy park development right-of-way grant, and a lease term of not less than 30 years.

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

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

1 SECTION 1. Division 7.7 (commencing with Section 8700) of
2 the Public Resources Code is repealed.

3 SEC. 2. Division 7.7 (commencing with Section 8700) is added
4 to the Public Resources Code, to read:

5
6 DIVISION 7.7. SCHOOL LANDS

7
8 CHAPTER 1. SCHOOL LAND BANK ACT

9
10 8700. This division shall be known and may be cited as the
11 School Land Bank Act.

12 8701. The Legislature finds and declares as follows:

13 (a) Past policies of the state have resulted in significant
14 depletion of the inventory of lands granted by the federal
15 government to provide fiscal support for the public school system.

1 (b) *It is essential that all remaining school lands and attendant*
2 *interests be managed and enhanced to provide an economic base*
3 *for support of the public school system.*

4 (c) *The commission shall plan and implement all transactions,*
5 *including exchanges, sales, and acquisitions which would facilitate*
6 *the management of school land interests for revenue generating*
7 *purposes.*

8 (d) *The state, through the commission, shall take all action*
9 *necessary to fully develop school lands, indemnity interests, and*
10 *attendant mineral interests into a permanent and productive*
11 *resource base.*

12 (e) *It is in the best interest of the state that school lands be*
13 *managed as a revenue source and it is the intent of the Legislature*
14 *that fair market value be a primary criterion in determining if*
15 *proposed uses or dispositions of land should be approved.*

16 (f) *The consolidation of school land parcels into contiguous*
17 *holdings is essential to sound and effective management and the*
18 *power to acquire lands by exchange or purchase is elemental to*
19 *the consolidation process.*

20 8702. *Unless the context otherwise requires, the definitions in*
21 *this section govern the construction of this division.*

22 (a) *“Commission” means the State Lands Commission.*

23 (b) *“Fund” means the School Land Bank Fund.*

24 (c) *“Trustee” means the State Lands Commission acting in its*
25 *role as trustee for the School Land Bank Fund.*

26 (d) *“School land” means land or interests in land granted to*
27 *the state by an Act of Congress March 3, 1853 (Ch. 145, 10 Stat.*
28 *244), for the specific purpose of providing support for the public*
29 *schools.*

30 8703. *Acquisitions may be made by negotiated agreement with,*
31 *or purchase from, the owners of the outstanding interests. Nothing*
32 *in this division confers any authority to exercise the power of*
33 *eminent domain for the purposes of this division, although that*
34 *power is statutorily vested in the commission.*

35 8704. *The trustee shall make all reasonable attempts to acquire*
36 *the mineral and other subsurface rights in any acquisition pursuant*
37 *to this division. If the trustee is unable to acquire the mineral and*
38 *other subsurface rights, the trustee may purchase real property*
39 *upon the trustee expressly finding that the benefits to be derived*
40 *from the acquisition are substantial and that acquisition of the*

1 *property without the subsurface rights is in the best interests of*
2 *the state for the purposes set forth in this division.*

3 8705. *The trustee has the exclusive jurisdiction and authority*
4 *to administer the fund and the interest in real property acquired*
5 *pursuant to this division, including the selection, acquisition, and*
6 *conveyance of real property by the trustee as provided in this*
7 *division.*

8 8706. *The state, in its sovereign capacity, shall accept any*
9 *conveyance, and the land shall thereafter be held by the state as*
10 *land of the legal character of school lands subject to the school*
11 *land trust under the jurisdiction of the commission pursuant to*
12 *Division 6 (commencing with Section 6001).*

13 8707. *The commission shall accept the conveyances on the*
14 *part of the state and shall authorize their acknowledgment and*
15 *recordation.*

16 8708. *Until expended for acquisitions in accordance with this*
17 *division, moneys in the fund shall be deposited in the Pooled Money*
18 *Investment Fund and the interest deposited in the fund.*

19 8709. *In addition to the purchase price to be paid, the costs*
20 *and expenses attributable to the acquisition may be payable from*
21 *the fund, provided that those costs shall not exceed 5 percent of*
22 *the expended funds.*

23 8709.5. *Expenses attributable to management and remediation*
24 *efforts on state school lands are payable from the fund.*

25 8710. *An action under this division is not subject to the*
26 *California Environmental Quality Act (Division 13 (commencing*
27 *with Section 21000)), the Subdivision Map Act (Division 2*
28 *(commencing with Section 66410) of Title 7 of the Government*
29 *Code), or the Property Acquisition Law (Part 11 (commencing*
30 *with Section 15850) of Division 3 of Title 2 of the Government*
31 *Code).*

32 8711. *There is in the State Treasury the School Land Bank*
33 *Fund, which is hereby created. Notwithstanding Section 13340 of*
34 *the Government Code, all moneys in the fund are appropriated to*
35 *the commission for expenditure, without regard to fiscal years, for*
36 *the purposes of this division. When performing the powers and*
37 *duties set forth in this division, the commission shall be known as*
38 *the School Land Bank Trustee.*

1 8712. *The trustee may acquire real property or any interest in*
2 *real property with the objective of facilitating management of*
3 *school lands for the purpose of generating revenue.*

4 8713. *The trustee shall act only at an open, scheduled public*
5 *meeting, subject to all provisions of Division 6 (commencing with*
6 *Section 6001) relating to meetings of the commission. The trustee*
7 *may combine its meeting with the meetings of the commission.*

8 8715. *The provisions of this division are not intended as*
9 *exclusive, and shall not restrict the commission in otherwise*
10 *meeting any other responsibilities and jurisdiction the commission*
11 *presently has by law.*

12 8716. *The trustee may accept gifts of real property or money*
13 *for the purposes of this division.*

14
15 *CHAPTER 2. LAND EXCHANGES FOR RENEWABLE*
16 *ENERGY-RELATED PROJECTS*
17

18 8720. *The Legislature finds and declares all of the follows:*

19 (a) *The high cost of energy is taking a financial toll on*
20 *California's citizens and economy, as well as making the state*
21 *more dependent on foreign oil.*

22 (b) *The use of fossil-fueled energy sources has caused*
23 *detrimental effects on the environment and human health by*
24 *polluting the air, soil, and water, as well as contributing to climate*
25 *change.*

26 (c) *California is home to abundant renewable energy resources,*
27 *such as solar, wind, geothermal, and biomass.*

28 (d) *The State Lands Commission manages on behalf of the State*
29 *Teachers' Retirement Fund (STRS) hundreds of thousands of acres*
30 *of school lands, a great deal of which have significant potential*
31 *for siting renewable energy projects.*

32 (e) *The State Lands Commission has a duty pursuant to the*
33 *School Land Bank Act (Chapter 1 (commencing with Section 8700))*
34 *to take all action necessary to fully develop school lands into a*
35 *permanent and productive resource base for the benefit of STRS.*

36 (f) *A significant amount of school lands are not producing*
37 *revenue because they are isolated, landlocked parcels, the majority*
38 *of which are remote desert lands. The consolidation of school land*
39 *parcels into contiguous holdings would facilitate the sound and*
40 *effective management of these lands.*

1 (g) On October 16, 2008, the State Lands Commission adopted
2 a resolution supporting the environmentally responsible
3 development of school lands for renewable energy-related projects.

4 (h) If school lands are leased for commercial, large-scale
5 renewable energy projects, the state will benefit in the form of
6 reduced carbon emissions, a cleaner and healthier environment,
7 affordable energy, stronger national security, new jobs, and more
8 funding for STRS.

9 (i) It is the policy of the state to promote the advancement,
10 development, assessment, and installation of renewable energy
11 systems on school lands. Any consolidation and development of
12 school lands for renewable energy should be done with assurances
13 that the state's unique and sensitive environment will be protected.

14 8721. For the purposes of this chapter, "California desert"
15 means the California Desert Conservation Area as described in
16 Section 1781 of Title 43 of the United States Code.

17 8722. (a) The commission shall make best efforts to enter into
18 a memorandum of agreement by April 1, 2012 with the United
19 States Secretary of the Interior to facilitate land exchanges that
20 consolidate school land parcels into contiguous holdings for
21 renewable energy-related projects.

22 (b) If a memorandum of agreement is entered into, the
23 commission shall make best efforts to consolidate all school land
24 parcels in the California desert into contiguous holdings for
25 renewable energy-related projects.

26 (c) The commission shall report to the Legislature by January
27 1 of each year on the status of the memorandum of agreement and
28 school land consolidation efforts in the California desert.

29 8724. (a) Within 240 days of the execution of the memorandum
30 of agreement, the commission shall prepare and submit to the
31 United States Secretary of the Interior a proposal for land
32 exchanges that consolidate all school land parcels in the California
33 desert into contiguous holdings for renewable energy-related
34 projects. In developing the proposal, the commission shall give
35 priority to land exchanges that will facilitate the development of
36 large-scale commercial renewable energy projects.

37 (b) The commission's proposal shall be based on an
38 acre-for-acre exchange with the United States.

39 (c) Notwithstanding subdivision (b), the commission may
40 withhold a school land parcel from an exchange proposal or

1 request additional consideration from the United States Secretary
 2 of the Interior if the commission reasonably believes, based on
 3 existing and reliable information, that an acre-for-acre exchange
 4 would not provide the state with compensation that is equal to or
 5 greater than the fair market value of the school land parcel. For
 6 the purpose of this subdivision, the commission shall consider the
 7 potential renewable energy value of a parcel the commission would
 8 receive in the exchange.

9 (d) In preparing the land exchange proposal, the commission
 10 shall do both of the following:

11 (1) Consult with the State Energy Resources Conservation and
 12 Development Commission to identify areas that are best suited for
 13 renewable energy projects because of access to transmission lines,
 14 renewable energy resources, and any other relevant factors.

15 (2) Consult with the Department of Fish and Game to identify
 16 areas in the California desert meeting both of the following
 17 criteria:

18 (i) It is not likely that a renewable energy project would have
 19 a significant effect on sensitive environmental habitat or migratory
 20 birds in the area.

21 (ii) The area would serve as a potential mitigation area to offset
 22 the impacts that renewable energy-related projects may have on
 23 the environment.

24 (e) The commission's costs and expenses attributable to the
 25 land exchange process may be payable from the fund.

26 (f) The commission may consider counter land exchange
 27 proposals from the United States Secretary of the Interior and
 28 make additional proposals to the extent that the additional
 29 proposals achieve the goals set forth in this chapter.

30 (g) Final approval of a land exchange proposed pursuant to
 31 this chapter shall be made by the commission at a properly noticed
 32 commission meeting.

33 ~~SECTION 1. Chapter 13 (commencing with Section 25990)~~
 34 ~~is added to Division 15 of the Public Resources Code, to read:~~

35

36 ~~CHAPTER 13. SOLAR ENERGY PARKS PROGRAM~~

37

38 ~~25990. (a) This chapter shall be known, and may be cited, as~~
 39 ~~the Solar Energy Parks Act.~~

1 (b) It is the policy of the state to promote a program for solar
2 energy parks on state lands for the advancement, development,
3 assessment, and installation of commercial concentrating solar
4 power energy systems.

5 25991. (a) By April 1, 2012, the commission and the State
6 Lands Commission shall submit to the Governor both of the
7 following:

8 (1) A determination of federal lands managed by the federal
9 Bureau of Land Management (BLM), and which are not already
10 encumbered by applications or rights of way, that may be suitable
11 for the installation of projects for 10 gigawatts (GW) of commercial
12 concentrating solar power energy systems.

13 (2) A determination of state-owned lands equal in size to the
14 federal lands identified in paragraph (1), and which are not already
15 encumbered by applications or rights of way, that may be
16 exchanged with the BLM lands, which would thereafter become
17 state-owned lands.

18 (b) The commission shall make the determination of site
19 suitability for the installation of commercial concentrating solar
20 power energy systems in consultation with the State Lands
21 Commission and the Public Utilities Commission.

22 (1) A site shall be assessed for all of the following:

23 (A) Existence of high insularity.

24 (B) Access to water.

25 (C) Access to existing or planned transmission lines and natural
26 gas pipelines.

27 (D) Avoidance of wilderness areas, areas of critical
28 environmental concern, United States Park System lands, and other
29 environmentally sensitive areas.

30 (E) Suitability for a variety of concentrating solar power
31 technologies.

32 (2) Each site identified as suitable for the installation of
33 commercial concentrating solar power systems shall be sufficient
34 for the installation of at least 1 GW.

35 (3) In aggregate, sites determined suitable by the commission,
36 with the concurrence of the State Lands Commission, shall be
37 sufficient for the installation of 10 GW of concentrating solar
38 power.

39 25992. (a) The commission and the State Lands Commission
40 shall consult with the United States Secretary of the Interior on

1 the implementation of the exchange of lands for concentrating
2 solar energy parks of 10 GW. The commission shall make best
3 efforts to complete the exchange of lands within 180 days after
4 the identification of those lands and formal consultation with the
5 United States Secretary of the Interior.

6 (b) ~~Prior to the transfer of title to the state, the commission, in
7 consultation with the State Lands Commission, shall establish
8 criteria for individual application processes for project developers
9 and shall establish project development milestones to ensure due
10 diligence in the development of the solar energy parks.~~

11 (c) ~~The commission, in consultation with the State Lands
12 Commission, shall complete all necessary environmental surveys,
13 and compliance and permitting processes for a programmatic right
14 of way pursuant to the California Environmental Quality Act
15 (Division 13 (commencing with Section 21000)), within one year
16 of the exchange of lands with the BLM.~~

17 25993. (a) ~~The commission shall ensure that all solar energy
18 park project applications submitted by individual developers or
19 applicants pursuant to this chapter are permitted utilizing expedited
20 permitting processes and shall approve or deny lease applications
21 within six months. Any additional costs created by utilizing
22 expedited permitting processes, and any environmental mitigation
23 costs incurred to develop solar power on these lands, shall be
24 recoverable from applicants who are developing projects within
25 the solar energy parks. An application for use of state-owned land
26 may not be approved by the commission unless the applicant has
27 a power purchase agreement with a utility with a term of at least
28 10 years and a pending or approved application with a permitting
29 authority having jurisdiction to provide all necessary permits for
30 the construction and operation of the solar energy project.~~

31 (b) ~~The rental fee for a commercial solar energy park
32 development right-of-way grant is established at two hundred
33 dollars (\$200) per acre for the first year of operation, increasing
34 25 percent after the first five years, and increasing 25 percent in
35 the 10th year of the program, to be paid in annual payments
36 commencing on the day of operation. During the development and
37 construction phase of a project, the rental fee shall be waived. A
38 lease for a project within the concentrating solar energy parks
39 program shall be for a term of not less than 30 years.~~

1 ~~25994. The commission shall, in consultation with the State~~
2 ~~Lands Commission, the Public Utilities Commission, the Federal~~
3 ~~Energy Regulatory Commission, affected utility industries and~~
4 ~~authorities, and other interested agencies and persons, identify~~
5 ~~necessary gas and electric transmission upgrades to the identified~~
6 ~~solar energy parks pursuant to this chapter.~~

O