

ASSEMBLY BILL

No. 2620

Introduced by Assembly Member Achadjian

February 24, 2012

An act to add Section 6320 to the Public Resources Code, relating to tidelands and submerged lands.

LEGISLATIVE COUNSEL'S DIGEST

AB 2620, as introduced, Achadjian. Tidelands and submerged lands: granted public trust lands.

Existing law grants to various local entities the right, title, and interest of the state in and to certain tidelands and submerged lands in trust generally for purposes of commerce, navigation, and fisheries, and for other public trust purposes. Existing law vests the State Lands Commission with all jurisdiction and authority remaining in the state as to tidelands and submerged lands as to which grants have been or may be made.

This bill would require the commission, by September 1, 2013, to prepare a workload analysis and implementation plan that includes specified items to ensure that the commission is able to fulfill its oversight responsibilities with respect to all legislatively granted public trust lands. The bill would also require the commission, in preparing the workload analysis and implementation plan, to conduct at least one public hearing and to consult with local trustees and users of granted public trust lands.

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

3 (a) Upon admission to the United States, and as an incident of
4 its sovereignty, the State of California received title to the tidelands,
5 submerged lands, and beds of navigable waterways within its
6 borders to be held subject to the public trust doctrine for statewide
7 public purposes, including commerce, navigation, fisheries,
8 preservation of lands in their natural state, and other recognized
9 public trust uses.

10 (b) The state has made grants of public trust lands to over 80
11 local public entities, each of which manages the state's public trust
12 lands as trustee pursuant to the public trust doctrine, legislative
13 grants, the California Constitution, and other laws governing the
14 trust and the trustee's fiduciary responsibilities.

15 (c) A local trustee of granted public trust lands is charged with
16 managing the state's granted public trust lands on behalf of the
17 state for the benefit of all the people of California.

18 (d) As part of its fiduciary duty, a local trustee of granted public
19 trust lands is required to take reasonable steps under the
20 circumstances to take and keep control of and preserve the trust
21 property.

22 (e) All jurisdiction and authority remaining in the state as to
23 tidelands and submerged lands as to which grants have been or
24 may be made is vested in the State Lands Commission.

25 (f) The use of revenues received from trust lands and trust assets
26 by a local trustee of granted public trust lands is limited by the
27 legislative grant, the public trust doctrine, and other laws governing
28 the trust. An evaluation of the proper use of granted public trust
29 lands necessarily includes evaluating whether the operation and
30 management of these resources managed on behalf of the state by
31 local trustees is consistent with the public trust for commerce,
32 navigation, and fisheries, and the applicable legislative grants.

33 (g) According to the State Auditor's report of August 2011, the
34 State Lands Commission "has not developed an audit plan designed
35 to ensure that the revenues generated on these granted lands are
36 used properly," and that "without oversight of granted lands, the
37 commission is neglecting its responsibility to protect the public

1 trust and risks having to address additional ongoing abuses of funds
2 dedicated for public trust uses.”

3 (h) As a result of the August 2011 review, the State Auditor
4 concluded that the State Lands Commission should establish a
5 monitoring program to ensure that the funds generated from granted
6 lands are expended in accordance with the public trust. The State
7 Auditor further concluded that, despite current understaffing
8 concerns, “the commission should perform a workload analysis
9 to determine the staffing levels it needs to fulfill its oversight
10 responsibilities of granted lands.”

11 (i) As a local trustee of granted public trust lands holds and
12 manages its public trust property, including the lands and revenue
13 derived from that property, as a state asset for the benefit of the
14 people of California and cannot use the trust corpus for general
15 municipal purposes or other purposes not consistent with the public
16 trust doctrine and its legislative grant, and because the State Lands
17 Commission is only being provided with a mechanism in this act
18 to sufficiently monitor the use and application of these state funds,
19 there is no state-mandated local program that results from the
20 implementation of this act.

21 SEC. 2. Section 6320 is added to the Public Resources Code,
22 to read:

23 6320. (a) For purposes of this section:

24 (1) A “local trustee of granted public trust lands” means a
25 county, city, or district, including water, sanitary, regional park,
26 port, or harbor district, or any other local political or corporate
27 subdivision that has been granted public trust lands through a
28 legislative grant.

29 (2) “Gross public trust revenues” means those gross revenues
30 that are subject to subdivision (b) of Section 6306.

31 (b) The commission shall prepare a workload analysis and
32 implementation plan pursuant to this section to ensure that it is
33 able to fulfill its oversight responsibilities with respect to all
34 legislatively granted public trust lands.

35 (c) The workload analysis and implementation plan shall be
36 prepared by September 1, 2013, and shall include all of the
37 following:

38 (1) An assessment of the oversight and audit methodologies by
39 which the commission could most effectively and efficiently
40 monitor the activities of a local trustee of granted public trust lands.

- 1 (2) The existing and historic gross public trust revenues that
- 2 would be subject to the commission's oversight.
- 3 (3) An estimate of the financial cost of the implementation plan.
- 4 (4) Strategies to fund the estimated financial cost of the
- 5 implementation plan.
- 6 (5) Potential alternative strategies or reporting requirements
- 7 that could be taken by local trustees of granted public trust lands
- 8 that would avoid or mitigate costs to the commission associated
- 9 with the workload analysis and implementation plan.
- 10 (6) Implementation measures and timetables.
- 11 (d) In preparing the workload analysis and implementation plan,
- 12 the commission shall conduct at least one public hearing and
- 13 consult with local trustees of granted public trust lands and users
- 14 of granted public trust lands.