

AMENDED IN ASSEMBLY MAY 21, 2012

**SENATE BILL**

**No. 1577**

---

---

**Introduced by Committee on Natural Resources and Water  
(Senators Pavley (Chair), Cannella, Evans, Fuller, Kehoe,  
La Malfa, Padilla, Simitian, and Wolk)**

March 19, 2012

---

---

An act to amend Sections 523, 525, and 526 of the Harbors and Navigation Code, and to add Section 5.6 to Chapter 74 of the Statutes of 1978, relating to ~~public trust lands~~ resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 1577, as amended, Committee on Natural Resources and Water. ~~Public trust lands: City of Newport Beach. Resources: vessels: removal:~~ public trust lands: City of Newport Beach.

(1) Existing law authorizes any peace officer, as described, or any lifeguard or marine safety officer employed by a county, city, or district, while engaged in the performance of official duties, to remove and, if necessary, store a vessel, as defined, removed from a public waterway under specified circumstances. Existing law specifies one of those circumstances is that the officer arrests a person operating or in control of the vessel for an alleged offense and the officer is, by other provisions of law, required to take, and does take, the person arrested before a magistrate without unnecessary delay. The public entity may recover the costs incurred in removing a vessel under this provision through an action in the court.

This bill would specify that the removal and storage may be taken as an immediate action and without notice. The bill would delete the condition, under that specified circumstance, that the officer is required to take, and takes, the person before a magistrate. The bill would allow

*the costs incurred by a public entity also to be recovered through the use of any available administrative remedy.*

*(2) Existing law makes it an infraction, with a minimum \$1,000 fine, and maximum \$3,000 fine, for a person to abandon a vessel upon a public waterway or public or private property, as specified, and provides that 80% of the moneys collected as fines be deposited in the Abandoned Watercraft Abatement Fund. Upon appropriation by the Legislature, moneys in the fund may be used for specified grants and other purposes. Existing law prohibits, until January 1, 2014, the state from assuming liability for any injuries or damages to a person or entity, public or private, connected to or resulting from the processing or disposal of a surrendered vessel.*

*This bill would additionally authorize the money to be expended by the Department of Boating and Waterways for removal of abandoned vessels and other navigational hazards. The bill would revise the prohibition against assuming liability provision to also prohibit any city, county, or special district or any designated agent or employee thereof and to apply to any injuries or damages to a person or entity, connected to or resulting from the nonremoval, removal, processing, or disposal of abandoned property, wrecked or dismantled vessels, the parts thereof, or any other partially submerged objects that pose a hazard to navigation. The bill would similarly revise these provisions as they apply to a surrendered vessel, until January 1, 2014.*

*(3) Existing law authorizes a public agency to sell or otherwise dispose of wrecked property that is an unseaworthy derelict or hulk, or abandoned property, removed from a navigable waterway, as specified, subject to specified conditions, including that the property has been appraised by disinterested persons as having an estimated value of less than \$2,000, and that not less than 72 hours before the property was removed, a notice was attached. Existing law requires the notice of removal to include specified information, including the right of the registered or legal owner to request a hearing, which is required to be conducted in a specified manner. The proceeds of any sale are required to be deposited in the Abandoned Watercraft Abatement Fund, for providing grants to local agencies.*

*This bill would delete all of the specified conditions necessary for a public agency to sale or dispose of the wrecked or abandoned property and would instead allow a public agency to take title to abandoned property for the sole purpose of abatement, without assuming any liability, and without satisfying any lien on the property, and to cause*

*the property to be sold, destroyed, or otherwise disposed of in any manner it determines is expedient or convenient. The public agency would be required to use reasonable means to identify and locate the owner and any lienholder and to provide notice, as specified. The bill would authorize the public agency to recover specified costs in a court action or by any available administrative remedy. The bill would also allow the public agency, if the abandoned property is sold, to recover its costs from the proceeds of the sale and to deposit any additional funds into the Abandoned Watercraft Abatement Fund, which would be authorized to be expended for removal and disposal actions and other purposes, including, until January 1, 2014, with regard to surrendered vessels.*

**Existing**

(4) Existing law grants to the City of Newport Beach all tide and submerged lands, whether filled or unfilled, bordering upon and under the Pacific Ocean or Newport Bay, as described, subject to specified conditions.

This bill would grant and convey in trust to the City of Newport Beach in the County of Orange all the right, title, and interest of the State of California, subject to the city’s statutory trust, acquired and held by the state pursuant to a specified agreement approved by the State Lands Commission, as described.

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. Section 523 of the Harbors and Navigation Code  
2 is amended to read:

3 523. (a) Any peace officer, as described in Section 663, or any  
4 lifeguard or marine safety officer employed by a county, city, or  
5 special district while engaged in the performance of official duties,  
6 may take immediate action, without notice, to remove a vessel,  
7 and, if necessary, store a vessel removed, from a public waterway  
8 under any of the following circumstances:

9 (1) When the vessel is left unattended and is moored, docked,  
10 beached, or made fast to land in a position that obstructs the normal  
11 movement of traffic or in a condition that creates a hazard to other  
12 vessels using the waterway, to public safety, or to the property of  
13 another.

1 (2) When the vessel is found upon a waterway and a report has  
2 previously been made that the vessel has been stolen or a complaint  
3 has been filed and a warrant thereon issued charging that the vessel  
4 has been embezzled.

5 (3) When the person or persons in charge of the vessel are by  
6 reason of physical injuries or illness incapacitated to an extent as  
7 to be unable to provide for its custody or removal.

8 (4) When an officer arrests any person operating or in control  
9 of the vessel for an alleged offense, ~~and the officer is, by any~~  
10 ~~provision of this code or other statute, required or permitted to~~  
11 ~~take, and does take, the person arrested before a magistrate without~~  
12 ~~unnecessary delay.~~

13 (5) When the vessel interferes with, or otherwise poses a danger  
14 to, navigation or to the public health, safety, or welfare.

15 (6) When the vessel poses a threat to adjacent wetlands, levies,  
16 sensitive habitat, any protected wildlife species, or water quality.

17 (7) When a vessel is found or operated upon a waterway with  
18 a registration expiration date in excess of one year before the date  
19 on which it is found or operated on the waterway.

20 (b) Costs incurred by a public entity pursuant to removal of  
21 vessels under subdivision (a) may be recovered through appropriate  
22 action in the courts of this state *or by the use of any available*  
23 *administrative remedy.*

24 *SEC. 2. Section 525 of the Harbors and Navigation Code, as*  
25 *amended by Section 1 of Chapter 416 of the Statutes of 2009, is*  
26 *amended to read:*

27 525. (a) Except for the urgent and immediate concern for the  
28 safety of those aboard a vessel, a person shall not abandon a vessel  
29 upon a public waterway or public or private property without the  
30 express or implied consent of the owner or person in lawful  
31 possession or control of the property.

32 (b) The abandonment of a vessel in a manner as provided in  
33 subdivision (a) is prima facie evidence that the last registered  
34 owner of record, not having notified the appropriate registration  
35 or documenting agency of any relinquishment of title or interest  
36 therein, is responsible for the abandonment and is thereby liable  
37 for the cost of the removal and disposition of the vessel.

38 (c) A violation of this section is an infraction and shall be  
39 punished by a fine of not less than one thousand dollars (\$1,000),  
40 nor more than three thousand dollars (\$3,000). In addition, the

1 court may order the defendant to pay to the agency that removes  
2 and disposes of the vessel the actual costs incurred by the agency  
3 for that removal and disposition.

4 (d) Fines imposed and collected pursuant to this section shall  
5 be allocated as follows:

6 (1) (A) Eighty percent of the moneys shall be deposited in the  
7 Abandoned Watercraft Abatement Fund, which is hereby created  
8 as a special fund. Moneys in the fund shall be used exclusively,  
9 upon appropriation by the Legislature, *by the department for the*  
10 *removal of abandoned vessels and other navigational hazards,*  
11 *and* for grants to be awarded by the department to local agencies  
12 for the abatement, removal, storage, and disposal as public  
13 nuisances of any abandoned property as described in Section 522  
14 or for the disposal of surrendered vessels as defined in Section  
15 526.1, wrecked or dismantled vessels, or parts thereof, or any other  
16 partially submerged objects that pose a substantial hazard to  
17 navigation, from navigable waterways or adjacent public property,  
18 or private property with the landowner's consent. These grants  
19 shall not be utilized for abatement, removal, storage, or disposal  
20 of commercial vessels.

21 (B) In evaluating a grant request submitted by a local agency  
22 pursuant to subparagraph (A), the department shall place great  
23 weight on the following two factors:

24 (i) The existence of an active local enforcement program to  
25 control and prevent the abandonment of watercraft within the local  
26 agency's jurisdiction.

27 (ii) The existence of a submerged navigational hazard abatement  
28 plan at the local level that provides for the control or abatement  
29 of water hazards, including, but not limited to, abandoned  
30 watercraft, wrecked watercraft, hazardous floating debris,  
31 submerged vessels and objects, and abandoned piers and pilings.

32 (C) A grant awarded by the department pursuant to subparagraph  
33 (A) shall be matched by a 10-percent contribution from the local  
34 agency receiving the grant.

35 (D) As a condition of receiving grant funding pursuant to this  
36 paragraph, a local agency shall report to the department data, as  
37 deemed appropriate by the department, regarding abandoned and  
38 surrendered vessels removed or anticipated for removal pursuant  
39 to this article.

1 (2) Twenty percent shall be allocated as set forth in Section  
2 1463.001 of the Penal Code.

3 (e) The state *and any city, county, or special district or any*  
4 *designated agent or employee thereof*, shall not assume liability  
5 for any injuries or damages to a person or entity, public or private,  
6 connected to or resulting from ~~the processing or disposal~~ *any of*  
7 *the following*:

8 (1) *The nonremoval, removal, processing, or disposal of*  
9 *abandoned property, wrecked or dismantled vessels, the parts*  
10 *thereof, or any other partially submerged object that poses a*  
11 *hazard to navigation.*

12 (2) *The nonremoval, removal, processing, or disposal of a*  
13 *surrendered vessel, as defined in Section 526.1.*

14 (f) The department may adopt rules and regulations for the  
15 purpose of administering this section.

16 (g) This section shall remain in effect only until January 1, 2014,  
17 and as of that date is repealed, unless a later enacted statute, that  
18 is enacted before January 1, 2014, deletes or extends that date.

19 *SEC. 3. Section 525 of the Harbors and Navigation Code, as*  
20 *added by Section 2 of Chapter 416 of the Statutes of 2009, is*  
21 *amended to read:*

22 525. (a) Except for the urgent and immediate concern for the  
23 safety of those aboard a vessel, a person shall not abandon a vessel  
24 upon a public waterway or public or private property without the  
25 express or implied consent of the owner or person in lawful  
26 possession or control of the property.

27 (b) The abandonment of a vessel in a manner as provided in  
28 subdivision (a) is prima facie evidence that the last registered  
29 owner of record, not having notified the appropriate registration  
30 or documenting agency of any relinquishment of title or interest  
31 therein, is responsible for the abandonment and is thereby liable  
32 for the cost of the removal and disposition of the vessel.

33 (c) A violation of this section is an infraction and shall be  
34 punished by a fine of not less than five hundred dollars (\$500),  
35 nor more than three thousand dollars (\$3,000). In addition, the  
36 court may order the defendant to pay to the agency that removes  
37 and disposes of the vessel the actual costs incurred by the agency  
38 for that removal and disposition.

39 (d) Fines imposed and collected pursuant to this section shall  
40 be allocated as follows:

1 (1) (A) Eighty percent of the moneys shall be deposited in the  
2 Abandoned Watercraft Abatement Fund, which is hereby created  
3 as a special fund. Moneys in the fund shall be used exclusively,  
4 upon appropriation by the Legislature, *by the department for*  
5 *removal of abandoned vessels and other navigational hazards,*  
6 *and for grants to be awarded by the department to local agencies*  
7 *for the abatement, removal, storage, and disposal as public*  
8 *nuisances of any abandoned, wrecked, or dismantled vessels, or*  
9 *parts thereof, or any other partially submerged objects that pose a*  
10 *substantial hazard to navigation, from navigable waterways or*  
11 *adjacent public property, or private property with the landowner's*  
12 *consent. These grants shall not be utilized for abatement, removal,*  
13 *storage, or disposal of commercial vessels.*

14 (B) In evaluating a grant request submitted by a local agency  
15 pursuant to subparagraph (A), the department shall place great  
16 weight on the following two factors:

17 (i) The existence of an active local enforcement program to  
18 control and prevent the abandonment of watercraft within the local  
19 agency's jurisdiction.

20 (ii) The existence of a submerged navigational hazard abatement  
21 plan at the local level that provides for the control or abatement  
22 of water hazards, including, but not limited to, abandoned  
23 watercraft, wrecked watercraft, hazardous floating debris,  
24 submerged vessels and objects, and abandoned piers and pilings.

25 (C) A grant awarded by the department pursuant to subparagraph  
26 (A) shall be matched by a 10-percent contribution from the local  
27 agency receiving the grant.

28 (2) Twenty percent shall be allocated as set forth in Section  
29 1463.001 of the Penal Code.

30 (e) *The state and any city, county, or special district, or any*  
31 *designated agent or employee thereof, shall not assume liability*  
32 *for any injuries or damages to a person or entity, public or private,*  
33 *connected to or resulting from the nonremoval, removal,*  
34 *processing, or disposal of abandoned property, wrecked or*  
35 *dismantled vessels, the parts thereof, or any other partially*  
36 *submerged object that poses a hazard to navigation.*

37 (e)

38 (f) This section shall become operative on January 1, 2014.

1     *SEC. 4. Section 526 of the Harbors and Navigation Code, as*  
2     *amended by Section 3 of Chapter 416 of the Statutes of 2009, is*  
3     *amended to read:*

4     526. (a) Notwithstanding any other ~~provision of law, any~~  
5     wrecked property that is an unseaworthy derelict or hulk,  
6     abandoned property as described in Section 522, or property  
7     removed from a navigable waterway pursuant to Section 523 or  
8     524 that is an unseaworthy derelict or hulk, may be sold or  
9     otherwise disposed of by the public agency that removed or caused  
10    the removal of the property pursuant to this section, ~~subject to the~~  
11    ~~following conditions, except a surrendered vessel, as defined in~~  
12    Section 526.1, may be disposed of immediately upon acceptance  
13    by a public agency ~~and is not subject to the following conditions:~~

14    ~~(1) The property has been appraised by disinterested persons,~~  
15    ~~and has an estimated value of less than two thousand dollars~~  
16    ~~(\$2,000).~~

17    ~~(2) There is no discernable registration, license, hull~~  
18    ~~identification number, or other identifying insignia on the property,~~  
19    ~~or the Department of Motor Vehicles is unable to produce any~~  
20    ~~record of the registered or legal owners or lienholders.~~

21    ~~(3) Not less than 72 hours before the property was removed,~~  
22    ~~the peace officer or authorized public employee securely attached~~  
23    ~~to the property a distinctive notice stating that the property would~~  
24    ~~be removed by the public agency.~~

25    ~~(4) Within 48 hours after the removal, excluding weekends and~~  
26    ~~holidays, the public agency that removed or caused the removal~~  
27    ~~of the property sent notice of the removal to the registered and~~  
28    ~~legal owners, if known or discovered subsequent to the removal,~~  
29    ~~at their addresses of record with the Department of Motor Vehicles,~~  
30    ~~and to any other person known to have an interest in the property.~~  
31    ~~A notice sent by the public agency shall be sent by certified or~~  
32    ~~first-class mail.~~

33    ~~(5) If the public agency is unable to locate the registered and~~  
34    ~~legal owners of the property or persons known to have an interest~~  
35    ~~in the property as provided in paragraph (4), the public agency~~  
36    ~~published, or caused to be published, the notice of removal for at~~  
37    ~~least two weeks in succession in one or more daily newspapers~~  
38    ~~circulated in the county.~~

39    ~~(b) The notice of removal required by paragraphs (3) to (5),~~  
40    ~~inclusive, of subdivision (a) shall state all of the following:~~

- 1     ~~(1) The name, address, and telephone number of the public~~  
2 ~~agency providing the notice.~~
- 3     ~~(2) A description of the property removed.~~
- 4     ~~(3) The location from which the property is to be or was~~  
5 ~~removed.~~
- 6     ~~(4) The location of the intended or actual place of storage.~~
- 7     ~~(5) The authority and purpose for removal of the property.~~
- 8     ~~(6) A statement that the property may be claimed and recovered~~  
9 ~~within 15 days of the date the notice of removal was issued~~  
10 ~~pursuant to paragraph (4) or (5) of subdivision (a), whichever is~~  
11 ~~later, after payment of any costs incurred by the public agency~~  
12 ~~related to salvage and storage of the property, and that following~~  
13 ~~the expiration of the 15-day period, the property will be sold or~~  
14 ~~otherwise disposed of by the public agency.~~
- 15     ~~(7) A statement that the registered or legal owners or any other~~  
16 ~~person known to have an interest in the property has the~~  
17 ~~opportunity for a poststorage hearing before the public agency that~~  
18 ~~removed, or caused the removal of, the property to determine the~~  
19 ~~validity of the removal and storage if a request for a hearing is~~  
20 ~~made in person or in writing to that public agency within 10 days~~  
21 ~~from the date of notice; that if the registered or legal owners or~~  
22 ~~any other person known to have an interest in the property disagree~~  
23 ~~with the decision of the public agency, the decision may be~~  
24 ~~reviewed pursuant to Section 11523 of the Government Code; and~~  
25 ~~that during the time of the initial hearing, or during the time the~~  
26 ~~decision is being reviewed pursuant to Section 11523 of the~~  
27 ~~Government Code, the vessel in question shall not be sold or~~  
28 ~~otherwise disposed of.~~
- 29     ~~(e) (1) Any requested hearing shall be conducted within 48~~  
30 ~~hours of the time the request for a hearing is received by the public~~  
31 ~~agency, excluding weekends and holidays. The public agency that~~  
32 ~~removed the vehicle may authorize its own officers or employees~~  
33 ~~to conduct the hearing, but the hearing officer shall not be the same~~  
34 ~~person who directed the removal and storage of the property.~~
- 35     ~~(2) The failure of either the registered or legal owners or any~~  
36 ~~other person known to have an interest in the property to request~~  
37 ~~or attend a scheduled hearing shall not affect the validity of the~~  
38 ~~hearing.~~
- 39     ~~(d) The property may be claimed and recovered by its registered~~  
40 ~~and legal owners, or by any other person known to have an interest~~

1 in the property, within 15 days of the date the notice of removal  
2 was issued pursuant to paragraph (4) or (5) of subdivision (a),  
3 whichever is later, after payment of any costs incurred by the public  
4 agency related to salvage and storage of the property.

5 (e) ~~The property may be sold or otherwise disposed of by the~~  
6 ~~public agency not less than 15 days from the date the notice of~~  
7 ~~removal was issued pursuant to paragraph (4) or (5) of subdivision~~  
8 ~~(a), whichever is later, or the date of actual removal, whichever is~~  
9 ~~later.~~

10 (f) ~~The proceeds from the sale of the property, after deducting~~  
11 ~~expenses for salvage, storage, sales costs, and any property tax~~  
12 ~~liens, shall be deposited in the Abandoned Watercraft Abatement~~  
13 ~~Fund for grants to local agencies, as specified in paragraph (1) of~~  
14 ~~subdivision (d) of Section 525.~~

15 (b) (1) *The public agency may take title to abandoned property*  
16 *for the sole purpose of abatement, without assuming any liability,*  
17 *and without satisfying any lien on the property, and may cause the*  
18 *property to be sold, destroyed, or otherwise disposed of in any*  
19 *manner it determines is expedient or convenient. The title to*  
20 *property transferred by the public agency by sale or otherwise to*  
21 *third parties shall be clear of any lien or encumbrance.*

22 (2) *Prior to the disposition of abandoned property pursuant to*  
23 *paragraph (1), the public agency shall use reasonable means to*  
24 *identify and locate the owner and any lienholder. If the owner is*  
25 *located, the public agency shall mail notice to the owner to claim*  
26 *the property by a specified date at least 15 days from the date of*  
27 *the notice.*

28 (3) *If the owner cannot be located or the owner fails to respond*  
29 *to the mailed notice or fails to claim the property within the time*  
30 *provided or extended, the public agency may direct disposition of*  
31 *the property at a properly noticed public meeting, notice of which*  
32 *shall be given to a known owner and known lienholder and the*  
33 *known owner, known lienholder, or any interested party shall be*  
34 *given the right to appear and be heard prior to the disposition of*  
35 *the property.*

36 (c) *The public agency's cost of disposing of abandoned property,*  
37 *including staff time and legal and attorney's fees, may be recovered*  
38 *by appropriate action in any court in which an action may be*  
39 *properly brought or by the use of any available administrative*  
40 *remedy.*

1 (d) If the abandoned property is sold, the public agency may  
2 recover its costs from the proceeds of the sale and any additional  
3 funds received shall be deposited into the Abandoned Watercraft  
4 Abatement Fund. These funds shall be used solely for additional  
5 removal and disposal actions under this section or Section 522,  
6 523, 524, 525, or 526.1.

7 ~~(g)~~

8 (e) It is the intent of the Legislature that this section shall not  
9 be construed to authorize the lien sale or destruction of any  
10 seaworthy vessel, other than a surrendered vessel as defined in  
11 Section 526.1, that is currently registered and operated in  
12 accordance with local, state, and federal law.

13 ~~(h)~~

14 (f) This section shall remain in effect only until January 1, 2014,  
15 and as of that date is repealed, unless a later enacted statute, that  
16 is enacted before January 1, 2014, deletes or extends that date.

17 SEC. 5. Section 526 of the Harbors and Navigation Code, as  
18 added by Section 4 of Chapter 416 of the Statutes of 2009, is  
19 amended to read:

20 526. (a) Notwithstanding any other ~~provision~~ of law, any  
21 wrecked property that is an unseaworthy derelict or hulk, ~~or~~  
22 abandoned property as described in Section 522, *or* property  
23 removed from a navigable waterway pursuant to Section 523 or  
24 524 that is an unseaworthy derelict or hulk, may be sold or  
25 otherwise disposed of by the public agency that removed or caused  
26 the removal of the property pursuant to this section, ~~subject to the~~  
27 ~~following conditions:~~

28 ~~(1) The property has been appraised by disinterested persons,~~  
29 ~~and has an estimated value of less than two thousand dollars~~  
30 ~~(\$2,000).~~

31 ~~(2) There is no discernable registration, license, hull~~  
32 ~~identification number, or other identifying insignia on the property,~~  
33 ~~or the Department of Motor Vehicles is unable to produce any~~  
34 ~~record of the registered or legal owners or lienholders.~~

35 ~~(3) Not less than 72 hours before the property was removed,~~  
36 ~~the peace officer or authorized public employee securely attached~~  
37 ~~to the property a distinctive notice stating that the property would~~  
38 ~~be removed by the public agency.~~

39 ~~(4) Within 48 hours after the removal, excluding weekends and~~  
40 ~~holidays, the public agency that removed or caused the removal~~

1 of the property sent notice of the removal to the registered and  
2 legal owners, if known or discovered subsequent to the removal,  
3 at their addresses of record with the Department of Motor Vehicles,  
4 and to any other person known to have an interest in the property.  
5 A notice sent by the public agency shall be sent by certified or  
6 first-class mail.

7 (5) If the public agency is unable to locate the registered and  
8 legal owners of the property or persons known to have an interest  
9 in the property as provided in paragraph (4), the public agency  
10 published, or caused to be published, the notice of removal for at  
11 least two weeks in succession in one or more daily newspapers  
12 circulated in the county.

13 (b) The notice of removal required by paragraphs (3) to (5),  
14 inclusive, of subdivision (a) shall state all of the following:

15 (1) The name, address, and telephone number of the public  
16 agency providing the notice.

17 (2) A description of the property removed.

18 (3) The location from which the property is to be or was  
19 removed.

20 (4) The location of the intended or actual place of storage.

21 (5) The authority and purpose for removal of the property.

22 (6) A statement that the property may be claimed and recovered  
23 within 15 days of the date the notice of removal was issued  
24 pursuant to paragraph (4) or (5) of subdivision (a), whichever is  
25 later, after payment of any costs incurred by the public agency  
26 related to salvage and storage of the property, and that following  
27 the expiration of the 15-day period, the property will be sold or  
28 otherwise disposed of by the public agency.

29 (7) A statement that the registered or legal owners or any other  
30 person known to have an interest in the property have the  
31 opportunity for a poststorage hearing before the public agency that  
32 removed, or caused the removal of, the property to determine the  
33 validity of the removal and storage if a request for a hearing is  
34 made in person or in writing to that public agency within 10 days  
35 from the date of notice; that if the registered or legal owners or  
36 any other person known to have an interest in the property disagree  
37 with the decision of the public agency, the decision may be  
38 reviewed pursuant to Section 11523 of the Government Code; and  
39 that during the time of the initial hearing, or during the time the  
40 decision is being reviewed pursuant to Section 11523 of the

1 ~~Government Code, the vessel in question shall not be sold or~~  
2 ~~otherwise disposed of.~~

3 ~~(e) (1) Any requested hearing shall be conducted within 48~~  
4 ~~hours of the time the request for a hearing is received by the public~~  
5 ~~agency, excluding weekends and holidays. The public agency that~~  
6 ~~removed the vehicle may authorize its own officers or employees~~  
7 ~~to conduct the hearing, but the hearing officer shall not be the same~~  
8 ~~person who directed the removal and storage of the property.~~

9 ~~(2) The failure of either the registered or legal owners or any~~  
10 ~~other person known to have an interest in the property to request~~  
11 ~~or attend a scheduled hearing shall not affect the validity of the~~  
12 ~~hearing.~~

13 ~~(d) The property may be claimed and recovered by its registered~~  
14 ~~and legal owners, or by any other person known to have an interest~~  
15 ~~in the property, within 15 days of the date the notice of removal~~  
16 ~~was issued pursuant to paragraph (4) or (5) of subdivision (a),~~  
17 ~~whichever is later, after payment of any costs incurred by the public~~  
18 ~~agency related to salvage and storage of the property.~~

19 ~~(e) The property may be sold or otherwise disposed of by the~~  
20 ~~public agency not less than 15 days from the date the notice of~~  
21 ~~removal was issued pursuant to paragraph (4) or (5) of subdivision~~  
22 ~~(a), whichever is later, or the date of actual removal, whichever is~~  
23 ~~later.~~

24 ~~(f) The proceeds from the sale of the property, after deducting~~  
25 ~~expenses for salvage, storage, sales costs, and any property tax~~  
26 ~~liens, shall be deposited in the Abandoned Watercraft Abatement~~  
27 ~~Fund for grants to local agencies, as specified in paragraph (1) of~~  
28 ~~subdivision (d) of Section 525.~~

29 ~~(b) (1) The public agency may take title to abandoned property~~  
30 ~~for the sole purpose of abatement, without assuming any liability,~~  
31 ~~and without satisfying any lien on the property, and may cause the~~  
32 ~~property to be sold, destroyed, or otherwise disposed of in any~~  
33 ~~manner it determines is expedient or convenient. The title to~~  
34 ~~property transferred by the public agency by sale or otherwise to~~  
35 ~~third parties shall be clear of any lien or encumbrance.~~

36 ~~(2) Prior to the disposition of abandoned property pursuant to~~  
37 ~~paragraph (1), the public agency shall use reasonable means to~~  
38 ~~identify and locate the owner and any lienholder. If the owner is~~  
39 ~~located, the public agency shall mail notice to the owner to claim~~

1 *the property by a specified date at least 15 days from the date of*  
 2 *the notice.*

3 (3) *If the owner cannot be located or the owner fails to respond*  
 4 *to the mailed notice or fails to claim the property within the time*  
 5 *provided or extended, the public agency may direct disposition of*  
 6 *the property at a properly noticed public meeting, notice of which*  
 7 *shall be given to a known owner and known lienholder and the*  
 8 *known owner, known lienholder, or any interested party shall be*  
 9 *given the right to appear and be heard prior to the disposition of*  
 10 *the property.*

11 (c) *The public agency’s cost of disposing of abandoned property,*  
 12 *including staff time and legal and attorney’s fees, may be recovered*  
 13 *by appropriate action in any court in which an action may be*  
 14 *properly brought or by the use of any available administrative*  
 15 *remedy.*

16 (d) *If the abandoned property is sold, the public agency may*  
 17 *recover its costs from the proceeds of the sale and any additional*  
 18 *funds received shall be deposited into the Abandoned Watercraft*  
 19 *Abatement Fund. These funds shall be used solely for additional*  
 20 *removal and disposal actions under this section or Section 522,*  
 21 *523, 524, or 525.*

22 ~~(g)~~  
 23 (e) *It is the intent of the Legislature that this section shall not*  
 24 *be construed to authorize the lien sale or destruction of any*  
 25 *seaworthy vessel that is currently registered and operated in*  
 26 *accordance with local, state, and federal law.*

27 ~~(h)~~  
 28 (f) *This section shall become operative on January 1, 2014.*

29 **SECTION 1.**

30 **SEC. 6.** *Section 5.6 is added to Chapter 74 of the Statutes of*  
 31 *1978, to read:*

32 **Sec. 5.6.** (a) *There is hereby granted and conveyed in trust to*  
 33 *the City of Newport Beach in the County of Orange all the right,*  
 34 *title, and interest of the State of California, subject to the city’s*  
 35 *statutory trust, acquired and held by the state pursuant to the*  
 36 *agreement that was approved as Calendar Item 73 of the September*  
 37 *1, 2011, State Lands Commission meeting, and which is further*  
 38 *described as follows:*

39 **A PARCEL OF FILLED TIDE AND SUBMERGED LAND**  
 40 **AND A PORTION OF SWAMP AND OVERFLOWED LANDS**

1 LOCATION NUMBER 3089 PATENT TO JAMES McFADDEN  
2 ON MAY 16, 1892, SITUATE IN THE CITY OF NEWPORT  
3 BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA,  
4 AS DESCRIBED AS FOLLOWS:

5 BEGINNING AT THE INTERSECTION OF THE WESTERLY  
6 RIGHT OF WAY LINE OF 15TH STREET (100 FEET WIDE)  
7 AND THE UNITED STATES GOVERNMENT BULKHEAD  
8 LINE BETWEEN STATION NUMBER 118 AND STATION  
9 NUMBER 119, AS SHOWN ON THE MAP ENTITLED  
10 "HARBOR LINES —NEWPORT BAY, NEWPORT BEACH,  
11 CALIFORNIA," DATED MARCH 20, 1936, FILE NUMBER  
12 958, APPROVED BY THE UNITED STATES SECRETARY OF  
13 WAR ON MAY 2, 1936, A COPY OF WHICH IS ON FILE IN  
14 THE OFFICES OF THE COASTAL PROJECTS SECTION,  
15 ENGINEERING DIVISION, UNITED STATES ARMY CORPS  
16 OF ENGINEERS, LOS ANGELES DISTRICT; THENCE ALONG  
17 SAID WESTERLY RIGHT OF WAY LINE SOUTH 10°40'10"  
18 WEST 109.82 FEET TO A POINT WHICH IS 160.00 FEET  
19 NORTHERLY FROM THE NORTHEASTERLY CORNER OF  
20 LOT 4, BLOCK 115 OF TRACT NO. 234 AS PER MAP FILED  
21 IN BOOK 13, PAGES 36 AND 37 OF MISCELLANEOUS  
22 MAPS, IN THE OFFICE OF SAID COUNTY RECORDER;  
23 THENCE NORTH 79°20'30" WEST 146.30 FEET; THENCE  
24 SOUTH 10°39'30" WEST 140.00 FEET TO A LINE PARALLEL  
25 WITH AND 20.00 FEET NORTH OF THE NORTHERLY LINE  
26 OF SAID BLOCK 115; THENCE ALONG SAID PARALLEL  
27 LINE NORTH 79°20'30" WEST 165.12 FEET TO THE  
28 NORTHEAST CORNER OF THE LAND DESCRIBED IN THE  
29 CITY OF NEWPORT BEACH RESOLUTION NO. 4532,  
30 RESOLUTION ORDERING VACATION, RECORDED  
31 AUGUST 20, 1956, IN BOOK 3618, PAGE 210 OFFICIAL  
32 RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER;  
33 THENCE ALONG THE EASTERLY LINE OF SAID LAND  
34 DESCRIBED IN SAID DEED SOUTH 10°39'12" WEST 20.00  
35 FEET TO THE NORTHERLY LINE OF SAID BLOCK 115;  
36 THENCE ALONG SAID NORTHERLY LINE SOUTH 79°20'30"  
37 EAST 20.00 FEET TO THE NORTHWEST CORNER OF LOT  
38 10, BLOCK 115 OF SAID TRACT NO. 234; THENCE ALONG  
39 THE WESTERLY LINE OF SAID LOT 10 SOUTH 10°39'12"  
40 WEST 99.79 FEET TO THE NORTHERLY RIGHT OF WAY

1 LINE OF BALBOA BOULEVARD (100 FEET WIDE); THENCE  
2 ALONG SAID NORTHERLY RIGHT OF WAY LINE NORTH  
3  $79^{\circ}19'20''$  WEST 128.80 FEET TO THE CENTERLINE OF 16TH  
4 STREET (40 FEET WIDE, PORTION NOW ABANDONED);  
5 THENCE ALONG SAID CENTERLINE NORTH  $10^{\circ}38'49''$   
6 EAST 70.87 FEET; THENCE NORTH  $79^{\circ}15'11''$  WEST 236.74  
7 FEET; THENCE NORTH  $10^{\circ}44'49''$  EAST 199.43 FEET TO  
8 THE BEGINNING OF A NONTANGENT CURVE CONCAVE  
9 SOUTHEASTERLY HAVING A RADIUS OF 168.54 FEET, A  
10 RADIAL BEARING TO SAID CURVE BEARS NORTH  
11  $15^{\circ}20'21''$  EAST; THENCE SOUTHWESTERLY 143.27 FEET  
12 ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF  
13  $48^{\circ}42'13''$  TO THE BEGINNING OF A COMPOUND CURVE  
14 CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 373.41  
15 FEET, A RADIAL BEARING TO SAID POINT BEARS NORTH  
16  $33^{\circ}21'52''$  WEST; THENCE SOUTHWESTERLY 79.01 FEET  
17 ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF  
18  $12^{\circ}07'24''$  TO THE BEGINNING OF A COMPOUND CURVE  
19 CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 239.54  
20 FEET, A RADIAL BEARING TO SAID POINT BEARS NORTH  
21  $45^{\circ}29'16''$  WEST; THENCE SOUTHWESTERLY 94.65 FEET  
22 ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF  
23  $22^{\circ}38'22''$  TO THE BEGINNING OF A COMPOUND CURVE  
24 CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 113.22  
25 FEET, A RADIAL BEARING TO SAID CURVE BEARS  
26 NORTH  $68^{\circ}07'38''$  WEST; THENCE SOUTHWESTERLY 22.09  
27 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE  
28 OF  $11^{\circ}10'47''$ ; THENCE SOUTH  $10^{\circ}41'35''$  WEST 54.92 FEET  
29 TO THE NORTHERLY RIGHT OF WAY LINE OF BALBOA  
30 BOULEVARD; THENCE ALONG SAID NORTHERLY RIGHT  
31 OF WAY LINE NORTH  $79^{\circ}22'58''$  WEST 225.76 FEET;  
32 THENCE NORTH  $10^{\circ}37'02''$  EAST 219.64 FEET TO THE  
33 BEGINNING OF A NONTANGENT CURVE CONCAVE  
34 NORTHEASTERLY HAVING A RADIUS OF 52.74 FEET, A  
35 RADIAL BEARING TO SAID CURVE BEARS SOUTH  
36  $15^{\circ}22'54''$  WEST; THENCE NORTHWESTERLY, NORTHERLY  
37 AND NORTHEASTERLY 93.91 FEET ALONG SAID CURVE  
38 THROUGH A CENTRAL ANGLE OF  $102^{\circ}01'22''$  TO A POINT  
39 OF CUSP WITH A NONTANGENT CURVE CONCAVE  
40 NORTHEASTERLY HAVING A RADIUS OF 72.54 FEET, A

1 RADIAL BEARING TO SAID CURVE BEARS SOUTH  
2 00°47'02" EAST; THENCE NORTHWESTERLY 42.46 FEET  
3 ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF  
4 33°31'53" TO THE BEGINNING OF A REVERSE CURVE  
5 CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 72.01  
6 FEET, A RADIAL BEARING THROUGH SAID POINT BEARS  
7 NORTH 32°44'52" EAST; THENCE SOUTHWESTERLY 54.01  
8 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE  
9 OF 42°58'25" TO THE BEGINNING OF A REVERSE CURVE  
10 CONCAVE NORTHWESTERLY HAVING A RADIUS OF 81.24  
11 FEET, A RADIAL BEARING THROUGH SAID POINT BEARS  
12 SOUTH 10°13'33" EAST; THENCE SOUTHWESTERLY 38.37  
13 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE  
14 OF 27°03'38" TO THE SOUTHEASTERLY RIGHT OF WAY  
15 LINE OF 18TH STREET (40 FEET WIDE); THENCE ALONG  
16 SAID SOUTHEASTERLY RIGHT OF WAY LINE NORTH  
17 10°36'36" EAST 82.47 FEET TO SAID U.S. BULKHEAD LINE;  
18 THENCE ALONG SAID BULKHEAD LINE SOUTH 79°22'11"  
19 EAST 1280.68 FEET TO THE POINT OF BEGINNING  
20 CONTAINING 6.958 ACRES, MORE OR LESS.

21 (b) There is hereby granted, conveyed, and confirmed in trust  
22 to the City of Newport Beach in the County of Orange all the right,  
23 title, and interest of the State of California, subject to the city's  
24 statutory trust, those lands quieted in the City of Newport Beach,  
25 as trustee, and located waterward of the ordinary high tide line  
26 between 18th and 19th Streets, as permanently fixed in SCC  
27 #40434, filed April 17, 1942, Orange County Recorder's Book  
28 1145, page 172.

29 (c) The lease of the lands described in subdivision (a), from the  
30 State Lands Commission to the city shall terminate on January 1,  
31 2013.

32 (d) The city shall hold, operate, and manage, in trust for the  
33 benefit of the statewide public, the public trust lands described in  
34 subdivisions (a) and (b) in accordance with the common law public  
35 trust doctrine and the terms, trusts, and conditions set forth in  
36 Chapter 78 of the Statutes of 1978, as amended by Chapter 728 of  
37 the Statutes of 1994, Chapter 317 of the Statutes of 1997, Chapter

1 745 of the Statutes of 2001, and Chapter 361 of the Statutes of  
2 2004.

O