

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1273**

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**Introduced by Assembly Member Ting**

February 22, 2013

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An act ~~relating to economic development~~ to amend Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 13, and 14 of Chapter 489 of the Statutes of 2001, relating to tidelands and submerged lands.

LEGISLATIVE COUNSEL'S DIGEST

AB 1273, as amended, Ting. ~~Economic development: legislative intent.~~ *Tidelands and submerged lands: City and County of San Francisco: Pier 30-32: multipurpose venue.*

(1) *Under existing law (the Burton Act), the state granted certain lands to the City and County of San Francisco in trust for purposes of commerce, navigation, and fisheries, and subject to specified terms and conditions relating to the operation of the Port of San Francisco. Existing law (the McAteer-Petris Act) establishes the San Francisco Bay Conservation and Development Commission and requires the commission to regulate fill and development within a specified area in San Francisco Bay. Existing law declares specified lands along the San Francisco waterfront to be free from the public trust for commerce, navigation, and fisheries, as provided, and authorizes the San Francisco Port Commission to approve a cruise ship terminal development, other maritime facilities, and commercial and office space on a specified area of the San Francisco waterfront. Existing law authorizes the State Lands Commission to convey to the City and County of San Francisco all of the rights, title, and interest held by the state in trust to specified lands along the waterfront, but prescribes terms and conditions for the use*

of those lands in connection with the cruise ship terminal development, as provided.

This bill would revise the above-described authorization for the conveyance of lands for use for a cruise ship terminal development to instead authorize the San Francisco Port Commission to approve a development on the San Francisco waterfront at Pier 30-32, which would include a multipurpose venue, if specified conditions are met. The bill would authorize the State Lands Commission to convey to the City and County of San Francisco all of the rights, title, and interest held by the state in trust to specified lands along the waterfront, but would prescribe terms and conditions for the use of those lands in connection with a multipurpose venue, as described. The bill would make conforming changes with regard to the revised authorization.

(2) This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco with respect to the development of Pier 30-32.

~~Existing law regulates businesses in the state and provides for the implementation of state programs designed to facilitate economic growth and job creation in the state.~~

~~This bill would declare the intent of the legislature to enact subsequent legislation that would promote economic growth and create jobs in California.~~

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

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

- 1     SECTION 1. This act shall be known, and may be cited, as the
- 2     Pier 30-32 Revitalization Act.
- 3     SEC. 2. Section 1 of Chapter 489 of the Statutes of 2001, as
- 4     amended by Section 1 of Chapter 68 of the Statutes of 2003, is
- 5     amended to read:
- 6     Sec. 1. For purposes of this chapter, the following terms have
- 7     the following meanings:
- 8     (a) “AB 418” means Chapter 477 of the Statutes of 2011.
- 9     (b) “America’s Cup” means the 34th America’s Cup.
- 10    (a)
- 11    (c) “BCDC” means the San Francisco Bay Conservation and
- 12    Development Commission established pursuant to Section 66620
- 13    of the Government Code.

1 ~~(b)~~

2 (d) “Bay jurisdiction” means the jurisdiction, powers, and duties  
3 of BCDC pursuant to Title 7.2 (commencing with Section 66600)  
4 of the Government Code within the area defined in subdivision  
5 (a) of Section 66610 of the Government Code.

6 ~~(e)~~

7 (e) “Bay Plan” means the San Francisco Bay Plan as adopted  
8 and administered by BCDC pursuant to Title 7.2 (commencing  
9 with Section 66600) of the Government Code, including all  
10 amendments thereto.

11 ~~(d) “Boundary of the Port of San Francisco” means that line~~  
12 ~~defining the boundary of “Parcel A” in the description of the lands~~  
13 ~~transferred in trust to the City and County of San Francisco~~  
14 ~~pursuant to Chapter 1333 of the Statutes of 1968, recorded on May~~  
15 ~~14, 1976, in Book C169, pages 573 to 664, inclusive, in the City~~  
16 ~~and County of San Francisco Recorder’s Office.~~

17 ~~(e)~~

18 (f) “Brannan Street Wharf” means a major San Francisco  
19 waterfront park in the area of Piers 34 and 36, as identified in the  
20 Special Area Plan.

21 ~~(f)~~

22 (g) “Burton Act” means Chapter 1333 of the Statutes of 1968,  
23 as amended.

24 ~~(g)~~

25 (h) “Burton Act trust” means the statutory trust imposed by the  
26 Burton Act (Chapter 1333 of the Statutes of 1968, as amended),  
27 pursuant to which the state conveyed to the City and County of  
28 San Francisco, in trust, by transfer agreement, and subject to certain  
29 terms, conditions, and reservations, the state’s interest in certain  
30 tide and submerged lands.

31 ~~(h)~~

32 (i) “City” means the City and County of San Francisco.

33 ~~(i)~~

34 (j) “McAteer–Petris Act” means Title 7.2 (commencing with  
35 Section 66000) of the Government Code.

36 ~~(j)~~

37 (k) “Public trust” or “trust” means the *common law* public trust  
38 for commerce, or navigation and fisheries.

39 ~~(k)~~

1 (l) “Port” means the City and County of San Francisco acting  
 2 by and through the San Francisco Port Commission.  
 3 ~~(t)~~  
 4 (m) “San Francisco Bay” means those areas defined in Section  
 5 66610 of the Government Code.  
 6 ~~(m)~~  
 7 (n) “San Francisco waterfront” means those portions of the area  
 8 transferred to the port pursuant to the Burton Act that also lie within  
 9 the area defined in subdivisions (a) and (b) of Section 66610 of  
 10 the Government Code.  
 11 ~~(n)~~  
 12 (o) “Seawall Lot 330” means that parcel of property located in  
 13 San Francisco identified on that certain map entitled SUR 790,  
 14 and shown on Page 318 of the City and County of San Francisco  
 15 100 Scale Ownership Maps, which is on file with the city’s Bureau  
 16 of Street Use and Mapping.  
 17 (p) “SB 815” means Chapter 660 of the Statutes of 2007, as  
 18 amended.  
 19 ~~(o)~~  
 20 (q) “Shoreline band jurisdiction” means the jurisdiction, powers,  
 21 and duties of BCDC pursuant to Title 7.2 (commencing with  
 22 Section 66600) of the Government Code to regulate uses within  
 23 the area defined in subdivision (b) of Section 66610 of the  
 24 Government Code to ensure, in part, maximum feasible public  
 25 access, as prescribed in Section 66632.4 of the Government Code.  
 26 ~~(p)~~  
 27 (r) “Special Area Plan” means the San Francisco Waterfront  
 28 Special Area Plan, dated July 20, 2000, adopted by BCDC, as  
 29 amended from time to time.  
 30 ~~(q)~~  
 31 (s) “Street” means those lands located within the South  
 32 Beach/China Basin Planning area of the San Francisco waterfront  
 33 at Seawall Lot 330, and also lying within Parcel A of those lands  
 34 transferred to the City and County of San Francisco pursuant to  
 35 the Burton Act, as recorded May 14, 1969, in Book C 169 at Pages  
 36 573 to 664, inclusive, in the San Francisco Recorder’s office, as  
 37 more particularly described as that portion of Main Street, located  
 38 between Bryant Street and the Embarcadero, vacated per Ordinance  
 39 14-93 on January 11, 1993, on file with the San Francisco Bureau  
 40 of Street Use and Mapping, in Book 10, Page 94. All streets and

1 street lines described in the preceding sentence are in accordance  
2 with that certain map entitled SUR 790, and shown on Page 318  
3 of the City and County of San Francisco 100 Scale Ownership  
4 Maps, on file with the City’s Bureau of Street Use and Mapping.

5 ~~(f)~~

6 (t) “Waterfront Land Use Plan” means the Waterfront Land Use  
7 Plan, including the Waterfront Design and Access Element, adopted  
8 by the port pursuant to Resolution No. 97–50, as amended from  
9 time to time.

10 *SEC. 3. Section 2 of Chapter 489 of the Statutes of 2001 is*  
11 *amended to read:*

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

13 (a) In 1965, the Legislature adopted the McAteer–Petris Act to  
14 protect and enhance the San Francisco Bay and its natural  
15 resources. The McAteer–Petris Act grants BCDC regulatory  
16 authority over further filling in San Francisco Bay through exercise  
17 of its bay jurisdiction, and limits that activity to (1) water-oriented  
18 uses that meet specified criteria; (2) minor fill that improves  
19 shoreline appearance or public access; and (3) activities necessary  
20 for the health, safety and welfare of the public in the entire bay  
21 area. The McAteer–Petris Act also authorizes BCDC to require the  
22 provision of maximum feasible access to the bay consistent with  
23 the project over a 100-foot shoreline band through the exercise of  
24 its shoreline band jurisdiction.

25 (b) In 1969, pursuant to the Burton Act, the state conveyed by  
26 transfer agreement certain state tide and submerged lands to the  
27 Port. The lands are held by the Port in trust for purposes of  
28 commerce, navigation, and fisheries, and are subject to the terms  
29 and conditions specified in the Burton Act and the public trust.  
30 During the three decades since passage of the Burton Act, issues  
31 have arisen concerning the application of the McAteer–Petris Act  
32 to the piers along the San Francisco waterfront. To address those  
33 issues, BCDC and the Port undertook two intensive and careful  
34 planning processes, which lasted over nine years.

35 (c) The first process culminated in 1997 with the adoption by  
36 the Port of the Waterfront Land Use Plan and with the adoption  
37 by the Board of Supervisors of the City and County of San  
38 Francisco and the Planning Commission of the City and County  
39 of conforming amendments to the City’s General Plan and Planning  
40 Code.

1 (d) In July 2000, after the second five-year cooperative process  
2 involving the Port, BCDC, the Save San Francisco Bay  
3 Association, and numerous interested community groups and  
4 individuals, was completed, the Port adopted further amendments  
5 to the Waterfront Land Use Plan. BCDC also adopted amendments  
6 to the Special Area Plan ~~which~~ *that* is incorporated into, and made  
7 a part of, the San Francisco Bay Plan, to create consistent plans  
8 for the area of the San Francisco waterfront between Pier 35 and  
9 China Basin. At the present time, the Waterfront Land Use Plan  
10 addresses specific McAteer–Petris Act issues relating to public  
11 access and the preservation and enhancement of open water as a  
12 bay resource in this area. The plan also defines public access  
13 opportunities on each pier in this area and calls for the removal of  
14 certain additional piers to enhance water views and create  
15 additional bay surface area.

16 (e) A major objective of the joint effort described in subdivisions  
17 (b), (c), and (d) is to establish a new criterion in the San Francisco  
18 Bay Plan that would permit fill on the San Francisco waterfront  
19 in an area where a Special Area Plan has been adopted by BCDC  
20 for uses that are consistent with the public trust and the Burton  
21 Act trust. The Special Area Plan for the area between Pier 35 and  
22 China Basin should provide for all of following:

23 (1) The nature and extent of maximum feasible public access  
24 for the piers including perimeter access, a history walk on most  
25 piers, and other significant access features on piers where  
26 appropriate.

27 (2) Two major public plazas, the Brannan Street Wharf adjacent  
28 to Pier 30-32 and another in the vicinity of Pier 27.

29 (3) A public planning process to lead to the creation of a third  
30 major public plaza in the Fisherman’s Wharf area.

31 (4) The removal of certain piers to uncover additional bay  
32 surface.

33 (5) The creation and funding of a special fund within the Port  
34 to finance the removal of the selected piers and the construction  
35 and maintenance of those public plazas.

36 (6) A historic preservation mechanism to ensure preservation  
37 of important historic resources on the piers.

38 (7) The ability of the Port to repair, improve, or use the piers  
39 not designated for removal between Pier 35 and China Basin for

1 any purpose consistent with the Burton Act, the public trust and  
2 the Special Area Plan.

3 (f) The San Francisco waterfront, which has been the subject  
4 of this planning process, provides benefits to the entire bay area,  
5 and serves as a unique destination for the region's public. These  
6 regionwide benefits include enjoyment of a unique, publicly owned  
7 waterfront that provides special maritime, navigational,  
8 recreational, cultural, and historical benefits that serve the bay  
9 area. Accordingly, the adoption by BCDC, and the ratification by  
10 the Legislature, of the Special Area Plan, as amended, is necessary  
11 to protect the health, safety, and welfare of the public in the entire  
12 bay area for purposes of subdivision (f) of Section 66632 of the  
13 Government Code.

14 (g) *The Port is a valuable public trust asset, a vibrant and*  
15 *world-renowned tourist destination, and a vital component of the*  
16 *regional, state, and national economies. The Port faces unique*  
17 *challenges in implementing the Waterfront Land Use Plan and*  
18 *Special Area Plan. Deferred maintenance on the Port's numerous*  
19 *historic piers and other structures, together with limitations on*  
20 *revenue generating opportunities, has caused deteriorating*  
21 *conditions along the San Francisco waterfront. The estimated cost*  
22 *of implementing the Port's capital plan is over two billion dollars*  
23 *(\$2,000,000,000), which substantially exceeds the projected*  
24 *revenues of the Port available for these purposes. A purpose of*  
25 *this act is to further the public trust by facilitating the Port's*  
26 *implementation of the important parts of the Waterfront Land Use*  
27 *Plan, the Special Area Plan, and the Port's capital plan, subject*  
28 *to environmental review, as required under the California*  
29 *Environmental Quality Act (Division 13 (commencing with Section*  
30 *21000) of the Public Resources Code).*

31 *SEC. 4. Section 3 of Chapter 489 of the Statutes of 2001 is*  
32 *amended to read:*

33 *Sec. 3. The Legislature also hereby finds and declares all of*  
34 *the following with respect to Seawall Lot 330 and the street:*

35 (a) *The lands comprising the street are tide and submerged lands*  
36 *that have been filled and reclaimed, and were reserved to the state*  
37 *solely for street purposes.*

38 (b) *The filled and reclaimed tide and submerged lands*  
39 *constituting the street have been filled and reclaimed for, and in*

1 connection with, a highly beneficial plan of improvement for harbor  
2 development.

3 (c) The street is not used, suitable, or necessary for navigation  
4 purposes and is not necessary, or used for street purposes.

5 (d) The street or any interests in the street that are to be sold by  
6 the city, and over which the Burton Act trust and the public trust  
7 will be terminated, constitute a relatively small portion of the  
8 granted tide and submerged lands.

9 (e) Section 3 of Article X of the California Constitution permits  
10 the sale to any city, county, city and county, municipal corporation,  
11 private person, partnership, or corporation of tidelands reserved  
12 to the state solely for street purposes, which tidelands the  
13 Legislature finds and declares are not used and not necessary for  
14 navigation purposes, subject to ~~such~~ *those* conditions ~~as~~ *that* the  
15 Legislature may impose to protect the public interest.

16 (f) The existence of the street limits the potential development  
17 of Seawall Lot 330. The proposed sale will be consistent with  
18 Section 3 of Article X of the California Constitution, if all of the  
19 following conditions are met:

20 (1) The consideration for the sale of the street, pursuant to  
21 Section 3 of Article X of the California Constitution, shall be the  
22 fair market value of those lands or interests in the lands.

23 (2) The street to be sold by the city and over which the public  
24 trust or the Burton Act trust, or both trusts, will be terminated has  
25 been filled and reclaimed, and the street consisting entirely of dry  
26 land lying above the present line of mean high tide is no longer  
27 needed or required for the purposes of the public trust or the Burton  
28 Act trust.

29 (3) The street to be sold by the city and over which the public  
30 trust or the Burton Act trust, or both trusts, will be terminated has  
31 been cut off from direct access to the waters of San Francisco Bay  
32 by past filling of intervening property for a major roadway (the  
33 Embarcadero), which has provided, and will continue to provide,  
34 lateral public access to the water.

35 (4) The street was reserved to the state for street purposes and  
36 is not used or necessary for navigation purposes. Therefore, in  
37 accordance with Section 3 of Article X of the California  
38 Constitution, that street can and should be conveyed into private  
39 ownership for uses consistent with, and in furtherance of, this act.



1 ~~(5) The sale of the street shall occur only in conjunction with a~~  
2 ~~simultaneous exchange of the state's sovereign title in Seawall Lot~~  
3 ~~330 pursuant to Chapter 310 of the Statutes of 1987, according to~~  
4 ~~the terms and conditions required by the State Lands Commission,~~  
5 ~~or other disposition of the state's sovereign title in Seawall Lot~~  
6 ~~330 approved by the State Lands Commission or the Legislature.~~

7 (g) It is therefore the intent of the Legislature, subject to the  
8 terms and conditions set forth in this act to authorize the city to  
9 dispose of the street for private use free from the public trust or  
10 the Burton Act trust.

11 *(h) In 2003, the Port and the State Lands Commission entered*  
12 *into an exchange agreement pursuant to Chapter 310 of the*  
13 *Statutes of 1987 by which a portion of Seawall Lot 330 was freed*  
14 *from the public trust and the Burton Act trust and was sold for fair*  
15 *market value, the proceeds from which were dedicated to*  
16 *construction of the Brannan Street Wharf. The Legislature enacted*  
17 *SB 815 in 2007, which lifted the public trust and the Burton Act*  
18 *trust use restrictions from the remainder of Seawall Lot 330,*  
19 *including the street, until 2094. In 2011, the Legislature enacted*  
20 *AB 418 to facilitate the America's Cup, which, subject to certain*  
21 *conditions, freed the remainder of Seawall Lot 330, including the*  
22 *street, from the public trust and authorized the Port to sell Seawall*  
23 *Lot 330 at fair market value, subject to the approval of the State*  
24 *Lands Commission. This section does not limit the effect of, or the*  
25 *authority granted to, the Port by SB 815 and AB 418 with respect*  
26 *to Seawall Lot 330, including the street.*

27 *SEC. 5. Section 4 of Chapter 489 of the Statutes of 2001 is*  
28 *amended to read:*

29 Sec. 4. The Legislature further finds and declares that the  
30 following unique circumstances exist at Pier 30-32 on the San  
31 Francisco waterfront, and that therefore, this act sets no precedent  
32 for any other location or project in the state:

33 (a) The Pier 30-32 platform bayward of the Embarcadero  
34 consists of ~~an~~ obsolete, pile-supported pier structures that are  
35 physically no longer capable of serving most trust-related purposes  
36 without substantial modification and repair. *The pier is an*  
37 *approximately 13-acre facility centrally located along the*  
38 *waterfront and with a natural deep water berth along its east face.*  
39 *However, the poor structural condition of Pier 30-32 currently*  
40 *limits the use of the pier to automobile parking and occasional,*

1 *temporary use as a tertiary berth for cruise ships and other deep*  
2 *draft vessels. The pier has a limited remaining useful life. The Port*  
3 *estimates that the cost of removing the pier would exceed forty-five*  
4 *million dollars (\$45,000,000).*

5 ~~(b) San Francisco is the center of northern California's cruise~~  
6 ~~activity. The Preserving Pier 30-32 requires a substantial capital~~  
7 ~~investment to improve the piles and decking to modern seismic~~  
8 ~~standards. The estimated cost of rehabilitating the pier~~  
9 ~~substantially exceeds its fair market value. The Port does not have~~  
10 ~~adequate funding in its 10-year capital plan for the costs to~~  
11 ~~improve or to remove the pier due to limited Port resources and~~  
12 ~~competing Port priorities, including completion of a new~~  
13 ~~international cruise terminal at Pier 27 and the preservation of~~  
14 ~~historic maritime resources in the Port's jurisdiction. The Port~~  
15 ~~must conserve Port revenue to support those maritime uses and~~  
16 ~~public improvements for which private investment is not~~  
17 ~~economical. Therefore, it is not feasible for the Port to directly~~  
18 ~~fund all necessary capital improvements to preserve the pier and~~  
19 ~~construct new, needed maritime or other public trust facilities on~~  
20 ~~Pier 30-32.~~

21 ~~(c) Over the past decade, the Port has sought to preserve and~~  
22 ~~develop Pier 30-32 through public-private partnerships. In 2001,~~  
23 ~~the Legislature authorized the development of Pier 30-32 with a~~  
24 ~~new cruise ship terminal, office space, and retail space. The need~~  
25 ~~for a new cruise ship terminal has been recognized for over 40~~  
26 ~~years, most recently in a 1998 assessment by the Port that found~~  
27 ~~that cruise industry experts considered the present terminal at Pier~~  
28 ~~35 on the San Francisco waterfront to be inferior to other cruise~~  
29 ~~terminals in the United States. That assessment also concluded~~  
30 ~~that the existing San Francisco passenger terminal at Pier 35 cannot~~  
31 ~~accommodate modern cruise ships. Without a new passenger~~  
32 ~~terminal, California stands to lose a significant portion of the cruise~~  
33 ~~ship business it presently enjoys, which would also adversely affect~~  
34 ~~the many maritime industries dependent on a healthy cruise~~  
35 ~~industry.~~

36 ~~(e) The ships. The Port's 1998 assessment evaluated alternative~~  
37 ~~locations for a new cruise ship terminal and concluded that Pier~~  
38 ~~30-32 was the most viable site for a new cruise terminal in San~~  
39 ~~Francisco because of dredging, site configuration, and development~~  
40 ~~considerations. The Port solicited proposals and selected a~~

1 *developer for a cruise ship terminal at Pier 30-32. The developer*  
2 *subsequently abandoned that project after determining that the*  
3 *financial investment required to improve the substructure of Pier*  
4 *30-32 was cost prohibitive, and no other developer could be found*  
5 *who was willing to accept assignment of the development rights*  
6 *for the project. The Port has since identified Pier 27 as the*  
7 *preferred location for its new cruise ship terminal in San*  
8 *Francisco, and construction of the terminal building is currently*  
9 *underway.*

10 *(d) In 2011, the America's Cup Event Authority proposed to*  
11 *improve Pier 30-32 to host racing teams and hospitality facilities*  
12 *during the America's Cup in 2013, and to acquire long-term*  
13 *development rights to Pier 30-32. Those planned facilities were*  
14 *ultimately relocated to other piers due primarily to the cost of*  
15 *rehabilitating the substructure of Pier 30-32.*

16 ~~(d)~~

17 *(e) The Waterfront Land Use Plan and the Special Area Plan*  
18 *recognize that the development of Pier 30-32 and the surrounding*  
19 *area within the South Beach/China Basin subarea identified in the*  
20 *Waterfront Land Use Plan would further the public trust purposes*  
21 *of increasing maritime activities and expanding public use and*  
22 *enjoyment of the waterfront on trust lands at this location.*

23 ~~(e)~~

24 ~~*(f) The Port has solicited proposals and has chosen a developer*~~  
25 ~~*for now proposes a mixed-use development at Pier 30-32, the*~~  
26 ~~*primary proposes of which are to promote waterborne*~~  
27 ~~*transportation at the port by constructing the James R. Herman*~~  
28 ~~*International Cruise Terminal at Pier 30-32, and to (1) further*~~  
29 ~~*public use, access, and enjoyment of the tidelands and surrounding*~~  
30 ~~*water at this location by providing boat berths, a multipurpose*~~  
31 ~~*venue for events and public assembly, coupled with public access,*~~  
32 ~~*and substantial ground floor open space, commercial public trust*~~  
33 ~~*uses, and parking serving the uses on Piers 30-32 and visitors to*~~  
34 ~~*the waterfront, and (2) preserve and enhance maritime uses and*~~  
35 ~~*water-oriented recreational activities at the site.*~~

36 ~~(f)~~

37 ~~*(g) In addition to being providing a destination for cruise ships*~~  
38 ~~*events, public assembly, and public access to the bay, the planned*~~  
39 ~~*improvements include maritime facilities on the pier. Possible*~~  
40 ~~*improvements include a new facility for the city's fire boats;*~~

1 berthing facilities for waterborne transit, such as water taxis and,  
2 ferries, or commercial excursion and recreational boats that boats;  
3 recreational water sports access, such as a public kayak launch  
4 area; periodic, temporary berthing for deep draft vessels on the  
5 east side of the pier, and other berthing facilities. New maritime  
6 facilities will promote local waterborne transit and may establish  
7 the proposed development at Pier 30-32 as a water-side waterside  
8 destination for recreational boating.

9 ~~(g) The Brannan Street Wharf will lie adjacent to Pier 30-32.~~  
10 Pursuant to the Special Area Plan implementation requirements,  
11 the approval and construction of the proposed development at Pier  
12 30-32 requires that the construction of Phase I of the Brannan  
13 Street Wharf be completed no later than five years after the  
14 issuance of a certificate of occupancy for the major reuse of Pier  
15 30-32, and that the entire Brannan Street Wharf be completed no  
16 later than 15 years after issuance of a certificate of occupancy for  
17 the major reuse of Pier 30-32, if grant funds or other funding are  
18 available, or 20 years if not. The Brannan Street Wharf will provide  
19 an essential recreational element to serve the public trust as  
20 provided in the Special Area Plan. Accordingly, it is desirable that  
21 the construction of the Brannan Street Wharf be accelerated.

22 (h) *The city's fire boats have operated on the San Francisco*  
23 *Bay since 1878 and have provided critical fire protection services*  
24 *to the city in situations like the Loma Prieta earthquake when the*  
25 *ability of the fire boats to pump bay water to fight fires saved a*  
26 *significant portion of San Francisco's Marina District, as well as*  
27 *the recent fire at Pier 29. In addition, the city's fire boat operation*  
28 *provides unique rescue and response services on the San Francisco*  
29 *Bay that are of regionwide significance. The current fire boat*  
30 *station at Pier 22 1/2 is no longer sufficient to serve the needs of*  
31 *the operation. A new fire boat facility at Pier 30-32 would provide*  
32 *an opportunity to improve and expand fire boat operations.*

33 ~~(h) The Port is~~

34 (i) *Pier 30-32 is ideally situated to provide public access to the*  
35 *waterfront. It is within walking distance of the Ferry Building, the*  
36 *San Francisco Giants baseball stadium, and regional transit hubs,*  
37 *including the proposed Transbay Transit Center, has unmatched*  
38 *views of the Bay Bridge, and is immediately adjacent to the*  
39 *Brannan Street Wharf project, which will provide a*  
40 *58,700-square-foot pile-supported park over the bay, consistent*

1 *with the Special Area Plan. The Port committed to the construction*  
2 *of the Brannan Street Wharf earlier than required under the Special*  
3 *Area Plan through investment of approximately ~~fifteen~~ twenty-five*  
4 *million dollars (~~\$15,000,000~~) (\$25,000,000) for the removal of*  
5 *175,000 square feet of pile-supported fill and development of*  
6 *public access improvements, ~~to be funded primarily by revenue~~*  
7 *from port operations, including the development of Pier 30-32.*  
8 *The Brannan Street Wharf project is currently under construction*  
9 *and is anticipated to be completed by June 2013. The value of the*  
10 *Brannan Street Wharf as a recreational resource is diminished by*  
11 *the current condition and use of Pier 30-32, which presents visual*  
12 *blight and cannot support dedicated public access on the pier.*

13 ~~(i) The proposed development of a cruise ship terminal at Pier~~  
14 ~~30-32 will require a substantial capital investment to improve the~~  
15 ~~piles and decking. The Port must conserve port revenue to support~~  
16 ~~those maritime uses and public improvements for which private~~  
17 ~~investment is not economical. Therefore, the Port cannot directly~~  
18 ~~fund all necessary capital improvements to construct new needed~~  
19 ~~maritime facilities, including a new passenger terminal and~~  
20 ~~associated improvements.~~

21 ~~(j) Under applicable regulations, and due to the limited, seasonal~~  
22 ~~(May through September) nature of the cruise ship operation, cruise~~  
23 ~~ships will use the cruise terminal only approximately 65 to 100~~  
24 ~~days per year.~~

25 ~~(k)~~

26 ~~(j) The inclusion of public access structures, a lagoon, transient~~  
27 ~~boat berthing, improvements, maritime facilities, and commercial~~  
28 ~~public trust uses, together with a new passenger terminal~~  
29 ~~multipurpose venue, promotes the trust objectives of furthering~~  
30 ~~maritime commerce and improving public access and use on the~~  
31 ~~San Francisco waterfront.~~

32 ~~(t) The inclusion of upper level general office space at Pier~~  
33 ~~30-32 is proposed because it provides a needed incentive for private~~  
34 ~~investment. To the extent the office space is not occupied by trust~~  
35 ~~tenants, it is not a trust use, notwithstanding its importance as a~~  
36 ~~financial inducement.~~

37 ~~(k) The estimated cost of the construction of the substructure~~  
38 ~~and related improvements required to make Pier 30-32 useable~~  
39 ~~for the proposed development is in excess of one hundred twenty~~  
40 ~~million dollars (\$120,000,000), which significantly exceeds the~~

1 *appraised fair market value of the pier. The project proposes to*  
 2 *finance substructure costs with private capital, the proceeds from*  
 3 *the sale or lease of Seawall Lot 330 pursuant to AB 418, rent*  
 4 *credits for the lease of Pier 30-32 to the developer of the venue,*  
 5 *property tax increment from an infrastructure financing district,*  
 6 *and possibly special taxes from a community facilities district. The*  
 7 *multi-purpose venue structure itself will be entirely privately*  
 8 *financed and will not require any expenditure of money from the*  
 9 *city’s general fund, or from other city or Port funds, for its*  
 10 *construction.*

11 *SEC. 6. Section 5 of Chapter 489 of the Statutes of 2001, as*  
 12 *amended by Section 2 of Chapter 68 of the Statutes of 2003, is*  
 13 *amended to read:*

14 *Sec. 5. The Legislature, in the exercise of its retained power*  
 15 *as trustee of the public trust, and in view of the unique*  
 16 *circumstances existing at Pier 30-32 on the San Francisco*  
 17 *waterfront and the considerable statewide public benefit and*  
 18 *promotion of ~~maritime transportation~~ the public trust that will be*  
 19 *brought about by the preservation of the pier, construction of a*  
 20 *new ~~passenger cruise ship terminal, improvements to berthing~~*  
 21 *facilities for waterborne transit, a lagoon, multipurpose venue,*  
 22 *establishment of maritime uses, and improved public access and*  
 23 *commercial public trust uses on this site, hereby authorizes the*  
 24 *Port to approve a ~~cruise ship terminal~~ development on the San*  
 25 *Francisco waterfront at Pier 30-32, ~~which would include general~~*  
 26 *office use and general retail use that includes a multipurpose venue,*  
 27 *if the Port finds that all of the following conditions are met:*

28 *(a) ~~The development includes a modern two-berth cruise ship~~*  
 29 *terminal.*

30 *(a) The venue facility is designed to provide vantage points*  
 31 *offering views of the Bay Bridge, the San Francisco Bay, or both,*  
 32 *from concourses on the south and east sides of the venue, and from*  
 33 *certain seating areas, and, consistent with programming needs of*  
 34 *events, the venue facility shall provide free public access to patrons*  
 35 *and nonpatrons alike to portions of the building on the east side*  
 36 *of the venue, from which the public can view the San Francisco*  
 37 *Bay, subject to reasonable limitations based on security.*

38 *(b) The development includes a public access component that*  
 39 *meets the requirements of the Special Area Plan and the San*  
 40 *Francisco Bay Plan as interpreted by BCDC ~~and that also offers~~*

1 ~~expanded bay views and public access, provides new public~~  
2 ~~vantage points on the north, east, and south sides of Pier 30-32~~  
3 ~~from which to view San Francisco Bay, and provides continuous~~  
4 ~~public access around the entire perimeter of Pier 30-32 (configured~~  
5 ~~as necessary to accommodate use by the fire boat station, berths,~~  
6 ~~or other maritime uses on the pier edge, to the extent each of those~~  
7 ~~uses is incorporated into the development) and between Pier 30-32~~  
8 ~~and the Brannan Street Wharf.~~

9 ~~(e) Prior to submitting a major permit application to BCDC for~~  
10 ~~the cruise ship terminal development, the Port, after review by or~~  
11 ~~on behalf of BCDC, approves the final design concept for the~~  
12 ~~Brannan Street Wharf.~~

13 ~~(d) Prior to the issuance of a BCDC permit for the cruise ship~~  
14 ~~terminal development, the Port demonstrates, to the satisfaction~~  
15 ~~of BCDC and the Attorney General's office, that it has irrevocably~~  
16 ~~encumbered all of the funds deemed necessary for the completion~~  
17 ~~of the Brannan Street Wharf and has placed the funds in a~~  
18 ~~segregated account guaranteed to be available to be drawn upon~~  
19 ~~for the construction of the Brannan Street Wharf, and the Port and~~  
20 ~~BCDC enter into an enforceable agreement that provides for the~~  
21 ~~Port to fund, directly or through grant funding, or both, design,~~  
22 ~~and construct the Brannan Street Wharf consistent with the~~  
23 ~~following timetable:~~

24 ~~(1) The Port shall complete preliminary engineering drawings~~  
25 ~~for the Brannan Street Wharf and prepare and submit to BCDC a~~  
26 ~~financing plan approved by the Port indicating funding sources~~  
27 ~~and estimated construction costs at the time the construction of~~  
28 ~~the cruise ship terminal development commences.~~

29 ~~(2) The Port shall complete Phase 1, the northern portion of the~~  
30 ~~Brannan Street Wharf (in the area of Pier 34), as described in the~~  
31 ~~Special Area Plan contemporaneously with the construction of the~~  
32 ~~cruise terminal development.~~

33 ~~(3) The Port shall remove Pier 36 and complete the Brannan~~  
34 ~~Street Wharf no later than five years after commencement of~~  
35 ~~construction of the cruise ship terminal development.~~

36 ~~(e) The amount of office space in the development does not~~  
37 ~~exceed 300,000 leasable square feet, all of which shall be above~~  
38 ~~the ground level. This office space shall also be designed to~~  
39 ~~contribute to a development design that includes public spaces and~~  
40 ~~promotes visual and public access. An additional 25,000 leasable~~

1 square feet of space in the cruise ship terminal building may be  
 2 used for general office use until the earlier of either of the  
 3 following:

4 (1) Fourteen years from the first date of occupancy.

5 (2) When home berthing ships above 5,000 passenger berth  
 6 capacity call for 15 days per year for two consecutive years.

7 (f) The development includes a marketing program designed to  
 8 maximize the amount of general office space occupied by  
 9 trust-related tenants over the life of the development.

10 (g) The cruise ship terminal development, if approved by BCDC,  
 11 complies with the requirements set forth in this subdivision. For  
 12 purposes of this subdivision only, “trust retail” means visitor  
 13 serving public trust retail and restaurant use. “Nontrust retail”  
 14 means other retail and theatre uses. The amount of trust retail  
 15 leasable space shall be equal to or greater than the nontrust retail  
 16 leasable space. The amount of trust retail leasable space, nontrust  
 17 retail leasable space, and visitor serving trust use converted from  
 18 trust or nontrust retail, as approved by BCDC, shall be at least 40  
 19 percent of the total amount of office leasable space.

20 (c) *The Brannan Street Wharf project, as described in the*  
 21 *Special Area Plan, shall be substantially complete and open to the*  
 22 *public prior to approval of the Pier 30-32 development.*

23 (d) *The development includes a significant maritime program*  
 24 *that provides for maritime uses along the north and east edges of*  
 25 *Pier 30-32, which uses may include, without limitation:*

26 (1) *A city fire station and berthing facilities for city fire boats.*

27 (2) *Facilities for berthing at the east end of Pier 30-32, including*  
 28 *facilities that can accommodate periodic use by cruise or other*  
 29 *deep draft vessels.*

30 (3) *Direct public access to the water in the form of a launch for*  
 31 *human-powered vessels, subject to feasibility and public safety*  
 32 *considerations.*

33 (4) *Guest berths that accommodate private vessels for day use.*

34 (5) *Water-based transit facilities, including water taxi and ferry*  
 35 *landings.*

36 (e) *The development provides for the use of the south edge of*  
 37 *Pier 30-32 by recreational craft or other maritime uses, which*  
 38 *may include, without limitation, the types of facilities referenced*  
 39 *in paragraphs (2) to (5), inclusive, of subdivision (d), or for public*



1 access or public water-oriented recreational uses facing the  
2 Brannan Street Wharf open water basin.

3 (f) Any nonmaritime office space provided on Pier 30-32 is for  
4 use by the primary tenants of the multipurpose venue, or is  
5 ancillary to the use of the multipurpose venue, the retail uses on  
6 Pier 30-32, the operation and management of the open space, and  
7 other public facilities on Pier 30-32.

8 (g) At least half of all retail on Pier 30-32 is trust retail. For  
9 purposes of this subdivision only, “trust retail” means visitor  
10 serving public trust retail and restaurant use.

11 (h) Any parking included on Pier 30-32 is located under active  
12 uses on Pier 30-32, substantially screened from public view, and  
13 designed to avoid material interference with pedestrian and bicycle  
14 traffic along Herb Caen Way and the public’s access to and use  
15 of the open space on the surface of the pier.

16 SEC. 7. Section 6 of Chapter 489 of the Statutes of 2001 is  
17 amended to read:

18 Sec. 6. The Legislature finds and declares that the 2000  
19 amendments of the San Francisco Bay Plan and the Special Area  
20 Plan by BCDC are authorized under subdivision (f) of Section  
21 66632 of the Government Code as necessary to protect the health,  
22 safety, and welfare of the public in the entire Bay Area bay area,  
23 and BCDC’s actions with respect to those amendments are hereby  
24 ratified and confirmed.

25 SEC. 8. Section 7 of Chapter 489 of the Statutes of 2001, as  
26 amended by Section 3 of Chapter 68 of the Statutes of 2003, is  
27 amended to read:

28 ~~Sec. 7. Notwithstanding the Special Area Plan and the Bay  
29 Plan requirement for findings of consistency with the public trust  
30 doctrine and the Burton Act, BCDC is authorized to approve the  
31 cruise ship terminal development trust as provided in this act.  
32 Except as provided in Section 14 of this act, nothing in this act is  
33 intended to limit the discretion of BCDC to approve or deny  
34 permits for the projects described in this act in a manner consistent  
35 with the McAteer-Petris Act, the Bay Plan, the Special Area Plan,  
36 and this act, or to limit the discretion of BCDC to enforce permits  
37 issued for the projects described in this act.~~

38 ~~Sec. 7. Any requirement for findings of consistency with the  
39 public trust doctrine or the Burton Act trust under the Special Area  
40 Plan, the Bay Plan, or any other applicable statute, regulation, or~~

1 *plan shall be deemed satisfied if the Port has made a finding that*  
2 *the Pier 30-32 development is consistent with the requirements of*  
3 *Section 6 of the Pier 30-32 Revitalization Act. Except as provided*  
4 *in this section, nothing in that act is intended to limit the discretion*  
5 *of BCDC to approve or deny permits for the projects described in*  
6 *that act in a manner consistent with the McAteer-Petris Act, the*  
7 *Bay Plan, the Special Area Plan, and that act, or to limit the*  
8 *discretion of BCDC to enforce permits issued for the projects*  
9 *described in that act.*

10 *SEC. 9. Section 8 of Chapter 489 of the Statutes of 2001 is*  
11 *amended to read:*

12 *Sec. 8. (a) For the purpose of effectuating the sale of the street,*  
13 *including the conveyance of the street by the city, free of the public*  
14 *trust and the Burton Act trust, the State Lands Commission may*  
15 *convey to the city by patent all of the rights, title, and interest held*  
16 *by the state by virtue of its sovereign trust title to the street,*  
17 *including any public trust interest or Burton Act reservation or*  
18 *trust interest, not heretofore conveyed, subject to any reservations*  
19 *the State Lands Commission determines appropriate.*

20 *(b) In any case—where in which the state, pursuant to this act,*  
21 *conveys filled tidelands and submerged lands transferred to the*  
22 *city pursuant to the Burton Act, the state shall reserve all minerals*  
23 *and all mineral rights in the lands of every kind and character now*  
24 *known to exist or hereafter discovered, including, but not limited*  
25 *to, oil and gas and rights thereto, together with the sole, exclusive,*  
26 *and perpetual right to explore for, remove, and dispose of those*  
27 *minerals by any means or methods suitable to the state or to its*  
28 *successors and assignees, except that, notwithstanding the Burton*  
29 *Act, or Section 6401 of the Public Resources Code, any such*  
30 *reservation shall not include the right of the state or its successors*  
31 *or assignees in connection with any mineral exploration, removal,*  
32 *or disposal activity, to do either of the following:*

33 *(1) Enter upon, use, or damage the surface of the lands or*  
34 *interfere with the use of the surface by any grantee or by the*  
35 *grantee's successors or assignees.*

36 *(2) Conduct any mining activities of any nature whatsoever*  
37 *above a plane located 500 feet below the surface of the lands*  
38 *without the prior written permission of any grantee of the lands or*  
39 *the grantee's successors or assignees.*

1 (c) *This section does not require the state, the city, or the Port*  
2 *to reserve mineral rights in any portion of Seawall Lot 330,*  
3 *including any portion of the street, that is conveyed pursuant to*  
4 *AB 418.*

5 SEC. 10. *Section 9 of Chapter 489 of the Statutes of 2001 is*  
6 *amended to read:*

7 Sec. 9. The city may, pursuant to Section 3 of Article X of the  
8 California Constitution, sell the street to any private person,  
9 partnership, or corporation, with the approval of the State Lands  
10 Commission, if the city first finds that the sale is consistent with  
11 the legislative findings and declarations set forth in Section 3. That  
12 sale shall not be effective unless and until the State Lands  
13 Commission, at a regular open meeting with the proposed sale of  
14 the street as a properly scheduled agenda item, does or has done,  
15 all of the following:

16 (a) Finds, or has found, that the consideration for the sale of the  
17 street pursuant to Section 3 of Article X of the California  
18 Constitution shall be the fair market value of the street.

19 (b) Adopts, or has adopted, a resolution approving the sale that  
20 finds and declares that the street has been filled and reclaimed, is  
21 cut off from access to the waters of San Francisco Bay, and is no  
22 longer needed or required for the promotion of the public trust or  
23 the Burton Act trust, and that no substantial interference with the  
24 public trust or Burton Act trust uses and purposes will ensue by  
25 virtue of the sale. The resolution shall also declare that the sale is  
26 consistent with the findings and declarations in Section 3, and the  
27 sale is in the best interests of the state and city. Upon adoption of  
28 the resolution, or at a time that is specified in the resolution, the  
29 street shall thereupon be free from the public trust and the Burton  
30 Act trust.

31 (c) Finds, or has found, that *the proceeds for the sale of the*  
32 *street shall occur only in conjunction with a simultaneous exchange*  
33 *of the state's sovereign title in Seawall Lot 330 pursuant to Chapter*  
34 *310 of the Statutes of 1987, according to the terms and conditions*  
35 *required by the State Lands Commission, or other disposition of*  
36 *the state's sovereign title in Seawall Lot 330 approved by the State*  
37 *Lands Commission or the Legislature, and that the proceeds for*  
38 *that sale will be devoted to trust-related capital improvements by*  
39 *the Port.*

1 (d) *This section does not apply to a conveyance of any portion*  
 2 *of Seawall Lot 330, including the street, that is made pursuant to*  
 3 *AB 418.*

4 *SEC. 11. Section 11 of Chapter 489 of the Statutes of 2001 is*  
 5 *amended to read:*

6 *Sec. 11. ~~Any agreement for the sale of, and trust termination~~*  
 7 *~~over, the street pursuant to this act~~ A deed, patent, agreement, or*  
 8 *other instrument executed in furtherance of this act, or an action*  
 9 *of the state, the city, or the Port to approve the use, lease, or*  
 10 *conveyance of any portion of port property subject to this act, or*  
 11 *to approve project agreements, grant entitlements, or permits, or*  
 12 *issue bonds or other indebtedness in connection with the use and*  
 13 *development of that property in accordance with this act, shall be*  
 14 *conclusively presumed to be valid, unless held to be invalid in an*  
 15 *appropriate proceeding in a court of competent jurisdiction to*  
 16 *determine the validity of the instrument, agreement. ~~Any such~~*  
 17 *~~proceeding shall be, or approval~~ commenced within 60 days after*  
 18 *the recording of the instrument or agreement, or the recording of*  
 19 *a memorandum evidencing the instrument or agreement, or, in the*  
 20 *case of an approval, within 60 days after the approval.*

21 *SEC. 12. Section 13 of Chapter 489 of the Statutes of 2001 is*  
 22 *amended to read:*

23 *Sec. 13. (a) An action may be brought under Chapter 4*  
 24 *(commencing with Section 760.010) of Title 10 of Part 2 of the*  
 25 *Code of Civil Procedure to establish title to any lands conveyed*  
 26 *pursuant to this act or by the parties to any agreement regarding*  
 27 *a street sale or exchange of land entered into pursuant to this act*  
 28 *or pursuant to Chapter 310 of the Statutes of 1987 to confirm the*  
 29 *validity of the agreement. Notwithstanding Section 764.080 of the*  
 30 *Code of Civil Procedure, the statement of decision in the action*  
 31 *shall include a recitation of the underlying facts and a determination*  
 32 *whether the conveyance or agreement meets the requirements of*  
 33 *this act, and, if applicable, Chapter 310 of the Statutes of 1987,*  
 34 *Sections 3 and 4 of Article X of the California Constitution, and*  
 35 *any other law applicable to the validity of the conveyance or*  
 36 *agreement.*

37 *(b) For purposes of Section 764.080 of the Code of Civil*  
 38 *Procedure, and unless otherwise agreed in writing, an agreement*  
 39 *entered into pursuant to this act shall be deemed to be entered into*  
 40 *on the date it is executed by the executive officer of the commission,*

1 *who shall be the last of the parties to sign prior to the signature*  
2 *of the Governor. The effective date of the agreement shall be*  
3 *deemed to be the date on which it is executed by the Governor*  
4 *pursuant to Section 6107 of the Public Resources Code.*

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

18 *SEC. 13. Section 14 of Chapter 489 of the Statutes of 2001 is*  
19 *amended to read:*

20 ~~*Sec. 14. The authorization contained in Section 5, and any*~~  
21 ~~*lease, permit, development approval, or other entitlement for use,*~~  
22 ~~*including any BCDC permit, for the cruise ship terminal*~~  
23 ~~*development that is dependent upon that authorization is not*~~  
24 ~~*affected by the failure of the Port to perform any obligation under*~~  
25 ~~*the BCDC agreement referred to in subdivision (d) of Section 5,*~~  
26 ~~*and that authorization and the lease, permit, development approval,*~~  
27 ~~*or other entitlement for use shall remain in full force and effect.*~~  
28 ~~*BCDC may enforce the agreement referred to in subdivision (d)*~~  
29 ~~*of Section 5 by specific performance or by any other enforcement*~~  
30 ~~*remedy in the McAteer-Petris Act, except for revocation of any*~~  
31 ~~*BCDC permit issued for the cruise terminal development.*~~

32 *Sec. 14. This act does not alter the obligations of the city or*  
33 *the Port under the California Environmental Quality Act (Division*  
34 *13 (commencing with Section 21000) of the Public Resources*  
35 *Code), including any obligation to consider alternatives to a*  
36 *project proposed for Pier 30-32 or Seawall Lot 330.*

37 *SEC. 14. For purposes of this act, subdivision (d) of Section 9*  
38 *of Chapter 477 of the Statutes of 2011 shall not apply to any sale*  
39 *of Seawall Lot 330 if the proceeds of the sale are applied to the*  
40 *cost of rehabilitating the Pier 30-32 substructure or the cost of*

1 *constructing maritime or public access improvements on Pier*  
2 *30-32.*

3 *SEC. 15. The Legislature finds and declares that a special law*  
4 *is necessary and that a general law cannot be made applicable*  
5 *within the meaning of Section 16 of Article IV of the California*  
6 *Constitution because of the unique circumstances applicable only*  
7 *to the trust lands described in this act.*

8 ~~SECTION 1. It is the intent of the Legislature to enact~~  
9 ~~subsequent legislation that would promote economic growth and~~  
10 ~~create jobs in California.~~