

AMENDED IN SENATE JUNE 19, 2013

AMENDED IN ASSEMBLY APRIL 24, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1273

Introduced by Assembly Member Ting

February 22, 2013

An act 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. 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~~ *authorize* a mixed-use development on the San Francisco waterfront at Pier 30-32, which would include a multipurpose venue *for events and public assembly*, if *the State Lands Commission finds, at a properly noticed public meeting, that* 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.

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. 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 (c) “BCDC” means the San Francisco Bay Conservation and
- 11 Development Commission established pursuant to Section 66620
- 12 of the Government Code.
- 13 (d) “Bay jurisdiction” means the jurisdiction, powers, and duties
- 14 of BCDC pursuant to Title 7.2 (commencing with Section 66600)

1 of the Government Code within the area defined in subdivision
2 (a) of Section 66610 of the Government Code.

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

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

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

12 (h) “Burton Act trust” means the statutory trust imposed by the
13 Burton Act (Chapter 1333 of the Statutes of 1968, as amended),
14 pursuant to which the state conveyed to the City and County of
15 San Francisco, in trust, by transfer agreement, and subject to certain
16 terms, conditions, and reservations, the state’s interest in certain
17 tide and submerged lands.

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

19 (j) “*Embarcadero Historic District*” means the Port of San
20 Francisco Embarcadero Historic District designated on the
21 National Register of Historic Places.

22 ~~(j)~~

23 (k) “McAteer-Petris Act” means Title 7.2 (commencing with
24 Section 66000) of the Government Code, as that act may be
25 amended from time to time.

26 ~~(k)~~

27 (l) “Public trust” or “trust” means the common law public trust
28 for commerce, navigation, and fisheries.

29 ~~(l)~~

30 (m) “Port” means the City and County of San Francisco acting
31 by and through the San Francisco Port Commission.

32 (n) “*Port historic structure*” means any building, structure, or
33 other facility that is located on port property and either is
34 individually listed or eligible for listing on the National Register
35 of Historic Places, or has been designated as, or meets the
36 standards for, a resource contributing to the historic significance
37 of the Embarcadero Historic District.

38 ~~(m)~~

39 (o) “San Francisco Bay” means those areas defined in Section
40 66610 of the Government Code.

- 1 ~~(n)~~
- 2

(p) “San Francisco waterfront” means those portions of the area
- 3 transferred to the Port pursuant to the Burton Act that also lie
- 4 within the area defined in subdivisions (a) and (b) of Section 66610
- 5 of the Government Code.
- 6 ~~(o)~~
- 7

(q) “Seawall Lot 330” means that parcel of property, or any
- 8 portion thereof, located in San Francisco identified on that certain
- 9 map entitled SUR 790, and shown on Page 318 of the City and
- 10 County of San Francisco 100 Scale Ownership Maps, which is on
- 11 file with the city’s Bureau of Street Use and Mapping.
- 12 ~~(p)~~
- 13

(r) “SB 815” means Chapter 660 of the Statutes of 2007, as
- 14 amended.
- 15 ~~(q)~~
- 16

(s) “Shoreline band jurisdiction” means the jurisdiction, powers,
- 17 and duties of BCDC pursuant to Title 7.2 (commencing with
- 18 Section 66600) of the Government Code to regulate uses within
- 19 the area defined in subdivision (b) of Section 66610 of the
- 20 Government Code to ensure, in part, maximum feasible public
- 21 access, as prescribed in Section 66632.4 of the Government Code.
- 22 ~~(r)~~
- 23

(t) “Special Area Plan” means the San Francisco Waterfront
- 24 Special Area Plan, dated July 20, 2000, adopted by BCDC, as
- 25 amended from time to time.
- 26 ~~(s)~~
- 27

(u) “Street” means those lands located within the South
- 28 Beach/China Basin Planning area of the San Francisco waterfront
- 29 at Seawall Lot 330, and also lying within Parcel A of those lands
- 30 transferred to the City and County of San Francisco pursuant to
- 31 the Burton Act, as recorded May 14, 1969, in Book C 169 at Pages
- 32 573 to 664, inclusive, in the San Francisco Recorder’s office, as
- 33 more particularly described as that portion of Main Street, located
- 34 between Bryant Street and the Embarcadero, vacated per Ordinance
- 35 14-93 on January 11, 1993, on file with the San Francisco Bureau
- 36 of Street Use and Mapping, in Book 10, Page 94. All streets and
- 37 street lines described in the preceding sentence are in accordance
- 38 with that certain map entitled SUR 790, and shown on Page 318
- 39 of the City and County of San Francisco 100 Scale Ownership
- 40 Maps, on file with the City’s Bureau of Street Use and Mapping.

(t)

(v) “Trust retail uses” means *retail establishments that facilitate and encourage public use of the waterfront and are consistent with the common law public trust, including, but not limited to, water-oriented retail, visitor-serving retail and retail, restaurant establishments establishments, and other similar retail uses that facilitate and encourage public use of the waterfront uses.*

(w) “Venue supporting retail uses” means *retail establishments, other than trust retail uses, where the tenant occupying the retail space is a significant corporate sponsor in the multipurpose venue or is a primary tenant of the multipurpose venue.*

(t)

(x) “Waterfront Land Use Plan” means the Waterfront Land Use Plan, including the Waterfront Design and Access Element, adopted by the port pursuant to Resolution No. ~~97-50~~ 97-50, as amended from time to time.

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

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

(a) Tide and submerged lands in California are held in trust for the enjoyment and use by the people of the state pursuant to the common law public trust doctrine. Public trust lands may be used for water-related purposes, including, but not limited to, commerce, navigation, fishing, swimming, ~~general~~ recreation, open space, and wildlife habitat.

(b) In 1965, the Legislature adopted the McAteer-Petris Act to protect and enhance the San Francisco Bay and its natural resources. Among other things, the McAteer-Petris Act grants BCDC regulatory authority over further filling in San Francisco Bay through exercise of its bay jurisdiction, and limits that activity to (1) water-oriented uses that meet specified criteria; (2) minor fill that improves shoreline appearance or public access; and (3) activities necessary for the health, ~~safety~~ safety, and welfare of the public in the entire bay area. The McAteer-Petris Act also mandates BCDC to require the provision of maximum feasible access to the bay and its shoreline consistent with a ~~project~~ project.

(c) In 1969, the Legislature received and acted upon ~~the~~ BCDC’s report and recommendations from a three-year study of the San Francisco Bay. The resulting Bay Plan contains, among other things, BCDC’s policies to guide use and protection of all areas

1 within BCDC's jurisdiction, including the bay and the 100-foot
2 shoreline band, and ensures that proposed projects, among other
3 things, minimize bay fill and provide maximum feasible public
4 access to the bay.

5 (d) In 1969, pursuant to the Burton Act, the state conveyed by
6 transfer agreement certain state tide and submerged lands to the
7 Port. The lands are held by the Port in trust for purposes of
8 commerce, navigation, and fisheries, and are subject to the terms
9 and conditions specified in the Burton Act and the public trust.
10 During the four decades since passage of the Burton Act, issues
11 have arisen concerning the application of the McAteer-Petris Act
12 to the piers along the San Francisco waterfront. To address those
13 issues, BCDC and the Port undertook two intensive and careful
14 planning processes, which lasted over nine years.

15 (e) The first process culminated in 1997 with the adoption by
16 the Port of the Waterfront Land Use Plan and with the adoption
17 by the Board of Supervisors of the City and County of San
18 Francisco and the Planning Commission of the City and County
19 of conforming amendments to the City's General Plan and Planning
20 Code.

21 (f) In July 2000, after the second five-year cooperative process
22 involving the Port, BCDC, the Save San Francisco Bay
23 Association, and numerous interested community groups and
24 individuals was completed, the Port adopted further amendments
25 to the Waterfront Land Use Plan. BCDC also adopted amendments
26 to the Special Area Plan that is incorporated into, and made a part
27 of, the Bay Plan, to create consistent plans for the area of the San
28 Francisco waterfront between Pier 35 and China Basin. At the
29 present time, the Special Area Plan addresses specific
30 McAteer-Petris Act issues relating to public access and the
31 preservation and enhancement of open water as a bay resource in
32 this area. The plan also defines public access opportunities on each
33 pier in this area and calls for the removal of certain additional piers
34 to enhance water views and create additional bay surface area.

35 (g) A major objective of the joint effort described in subdivisions
36 (d), (e), and (f) is to establish a new criterion in the Bay Plan that
37 would permit fill on the San Francisco waterfront in an area where
38 a Special Area Plan has been adopted by BCDC for uses that are
39 consistent with the public trust and the Burton Act trust. The

1 Special Area Plan for the area between Pier 35 and China Basin
2 provides, in part, for all of following:

3 (1) The nature and extent of maximum feasible public access
4 to the bays and the waterfront, including perimeter access at the
5 piers, a system of integrated public parks, promenades, a Bayside
6 History Walk on most piers, and other significant access features
7 on piers where appropriate.

8 (2) Two major public plazas, the Brannan Street Wharf adjacent
9 to Pier 30-32 and a new plaza at Pier 27.

10 (3) A public planning process to lead to the creation of a third
11 major public plaza in the Fisherman's Wharf area.

12 (4) The restoration and preservation of significant open water
13 basins and areas through the removal of certain piers to uncover
14 additional bay surface and the restriction of new bay fill in open
15 water basins and areas to minor amounts needed to improve public
16 access and shoreline appearance and accommodate permissible
17 water-oriented uses.

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

21 (6) A historic preservation mechanism to ensure preservation
22 and enhancement of important historic resources on the piers,
23 including the designation of the National Register Embarcadero
24 Historic District.

25 (7) The preservation and improvement of existing views and
26 creation of new views of the bay from the shoreline.

27 (8) The ability of the Port to repair, improve, or use the piers
28 not designated for removal between Pier 35 and China Basin for
29 any purpose consistent with the Burton Act, the public-trust trust,
30 and the Special Area Plan.

31 (h) The San Francisco waterfront, which has been the subject
32 of this planning process, provides benefits to the entire bay area,
33 and serves as a unique destination for the *state and region's* public.
34 These ~~regionwide~~ *state and region wide* benefits include enjoyment
35 of a unique, publicly owned waterfront that provides special
36 maritime, navigational, recreational, cultural, and historical benefits
37 that serve the bay area. Accordingly, the adoption by BCDC, and
38 the ratification by the Legislature, of the Special Area Plan, as
39 amended, is necessary to protect the health, safety, and welfare of

1 the public in the entire bay area for purposes of subdivision (f) of
2 Section 66632 of the Government Code.

3 (i) The Port is a valuable public trust asset, a vibrant and
4 world-renowned tourist destination, and a vital component of the
5 regional, state, and national economies. The Port faces unique
6 challenges in implementing the Waterfront Land Use Plan.
7 Deferred maintenance on the Port's numerous historic piers and
8 other structures, together with limitations on revenue generating
9 opportunities, has caused deteriorating conditions along the San
10 Francisco waterfront. The Port's estimate of the cost of
11 implementing its capital plan is over two billion dollars
12 (\$2,000,000,000), which substantially exceeds the projected
13 revenues estimated by the Port to be available for these purposes.

14 SEC. 4. Section 3 of Chapter 489 of the Statutes of 2001 is
15 amended to read:

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

18 (a) The lands comprising the street are tide and submerged lands
19 that have been filled and reclaimed, and were reserved to the state
20 solely for street purposes.

21 (b) The filled and reclaimed tide and submerged lands
22 constituting the street have been filled and reclaimed for, and in
23 connection with, a highly beneficial plan of improvement for harbor
24 development.

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

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

31 (e) Section 3 of Article X of the California Constitution permits
32 the sale to any city, county, city and county, municipal corporation,
33 private person, partnership, or corporation of tidelands reserved
34 to the state solely for street purposes, which tidelands the
35 Legislature finds and declares are not used and not necessary for
36 navigation purposes, subject to those conditions that the Legislature
37 may impose to protect the public interest.

38 (f) The existence of the street limits the potential development
39 of Seawall Lot 330. The proposed sale will be consistent with

1 Section 3 of Article X of the California Constitution, if all of the
2 following conditions are met:

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

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

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

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

23 (g) It is therefore the intent of the Legislature, subject to the
24 terms and conditions set forth in this ~~act~~ *act*, to authorize the city
25 to dispose of the street for private use free from the public trust or
26 the Burton Act trust.

27 (h) In 2003, the Port and the State Lands Commission entered
28 into an exchange agreement pursuant to Chapter 310 of the Statutes
29 of 1987 by which a portion of Seawall Lot 330 was freed from the
30 public trust and the Burton Act trust and was sold for fair market
31 value, the proceeds from which were dedicated to construction of
32 the Brannan Street Wharf. The Legislature enacted SB 815 in 2007,
33 which lifted the public trust and Burton Act trust use restrictions
34 from the remainder of Seawall Lot 330, including the street, until
35 2094. In 2011, the Legislature enacted AB 418 in part to facilitate
36 the America's Cup, which, subject to certain conditions, freed the
37 remainder of Seawall Lot 330, including the street, from the public
38 trust and authorized the Port to sell Seawall Lot 330 at fair market
39 value subject to the State Lands Commission's approval.

1 (i) This section does not limit the effect of, or the authority
2 granted to the Port by, SB 815 and AB 418 with respect to Seawall
3 Lot 330, including the street.

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

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

11 (a) The Pier 30-32 platform bayward of the Embarcadero
12 consists of obsolete, pile-supported pier structures that are
13 physically no longer capable of serving most trust-related purposes
14 without substantial modification and repair. The pier is an
15 approximately 13-acre facility centrally located along the
16 waterfront and with a natural deep water berth along its east face.
17 However, the poor structural condition of Pier 30-32 currently
18 limits the use of the pier to automobile parking and occasional,
19 temporary use as a tertiary berth for cruise ships and other deep
20 draft vessels. The pier has a limited remaining useful life. The Port
21 estimates that the cost of removing the pier would exceed forty-five
22 million dollars (\$45,000,000).

23 (b) Preserving Pier 30-32 requires a substantial capital
24 investment to improve the piles and decking to modern seismic
25 standards. The Port estimates that the cost of rehabilitating the pier
26 substantially exceeds the Port’s estimates of the pier’s fair market
27 value. The Port does not have adequate funding in its 10-year
28 capital plan for the costs to improve or to remove the pier due to
29 limited Port resources and competing Port priorities, including
30 completion of a new international cruise terminal at Pier 27 and
31 the preservation of historic maritime resources in the Port’s
32 jurisdiction. The Port must conserve Port revenue to support those
33 maritime uses and public improvements for which private
34 investment is not economical.

35 (c) Over the past decade, the Port has sought to preserve and
36 develop Pier 30-32 through public-private partnerships. In 2001,
37 the Legislature authorized the development of Pier 30-32 with a
38 new cruise ship terminal, office space, and retail space. The need
39 for a new cruise ship terminal has been recognized for over 40
40 years. A 1998 assessment by the Port found that cruise industry

1 experts considered the present terminal at Pier 35 on the San
2 Francisco waterfront to be inferior to other cruise terminals in the
3 United States. That assessment also concluded that the existing
4 San Francisco passenger terminal at Pier 35 cannot accommodate
5 modern cruise ships. The Port's 1998 assessment evaluated
6 alternative locations for a new cruise ship terminal and concluded
7 that Pier 30-32 was the most viable site for a new cruise terminal
8 in San Francisco because of its position adjacent to deep water,
9 site configuration, and development considerations. The Port
10 solicited proposals and selected a developer for a cruise ship
11 terminal at Pier 30-32. The developer subsequently abandoned
12 that project after determining that the financial investment required
13 to improve the substructure of Pier 30-32 was cost prohibitive,
14 and no other developer could be found who was willing to accept
15 assignment of the development rights for the project. The Port has
16 since identified Pier 27 as the preferred location for its new cruise
17 ship terminal in San Francisco, and construction of the terminal
18 building is currently underway.

19 (d) In 2011, the America's Cup Event Authority proposed to
20 improve Pier 30-32 to host racing teams and hospitality facilities
21 during the America's Cup in 2013, and to acquire long-term
22 development rights to Pier 30-32. Those planned facilities were
23 ultimately relocated to other piers due primarily to the cost of
24 rehabilitating the substructure of Pier 30-32.

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

31 (f) The Port now proposes a mixed-use development at Pier
32 30-32, which will further public use, access, and enjoyment of the
33 tidelands and surrounding water at this location by providing a
34 multipurpose venue for events and public assembly, coupled with
35 public access, open space, and ~~venue-supporting~~ *venue supporting*
36 or trust retail uses; significant maritime facilities, including an
37 occasional berthing area for large vessels; bay-oriented recreational
38 activities; and limited ancillary parking as reasonably necessary
39 to meet the visitor-serving needs of the mixed-used development,
40 including the multipurpose venue, all of which are designed to

1 preserve and improve public and visual access to the bay and its
2 shoreline.

3 (g) Pier 30-32 is ideally situated to provide public access to and
4 enjoyment of the waterfront and bay. It is within walking distance
5 of the Ferry Building, the San Francisco Giants baseball stadium,
6 and regional transit hubs, including the Transbay Transit Center,
7 which is under construction, has unmatched views of the Bay and
8 the Bay Bridge, and is immediately adjacent to the Brannan Street
9 Wharf project, which will provide a 58,700-square-foot
10 pile-supported park over the bay, consistent with the Special Area
11 Plan. The Port committed to the construction of the Brannan Street
12 Wharf earlier than required under the Special Area Plan through
13 investment of approximately twenty-five million dollars
14 (\$25,000,000) for the removal of 175,000 square feet of
15 pile-supported fill and development of public access improvements
16 . The Brannan Street Wharf project is currently under construction
17 and is anticipated to be completed by June 2013. The value of the
18 Brannan Street Wharf as a recreational resource is diminished by
19 the current condition and use of Pier 30-32, which cannot support
20 dedicated public access on the pier and full realization of the
21 Brannan Street Wharf Open Water Basin.

22 (h) The inclusion of significant public access improvements,
23 maritime facilities, and ~~venue-supporting~~ *venue supporting* or trust
24 retail uses, together with a new multipurpose venue for events that
25 bring people from around the state to the waterfront to use and
26 enjoy the public trust assets of San Francisco, enhances and
27 promotes ~~the trust uses of the tidelands location~~ *purposes at Pier*
28 *30-32*.

29 (i) The Port estimates the cost of the construction of the
30 substructure and related improvements required to make Pier 30-32
31 useable for the proposed mixed-use development is in excess of
32 one hundred twenty million dollars (\$120,000,000), which
33 significantly exceeds the Port’s appraised fair market value of the
34 pier. The Port plans to finance the substructure costs with private
35 capital and the following public revenue sources: the proceeds
36 from the sale or lease of Seawall Lot 330 pursuant to AB 418, rent
37 credits for the lease of Pier 30-32 to the developer of the venue,
38 property tax increment from an infrastructure financing district,
39 and possibly special taxes from a community facilities district.
40 Construction of the multipurpose venue structure will be entirely

1 privately financed and will not require any expenditure of money
2 from the city's general fund, or from other city or Port funds.

3 (j) There are presently few visitor-serving amenities in the
4 vicinity of Pier 30-32. The Port's efforts to develop its property
5 for hotel use have been unsuccessful. The development of the
6 multipurpose venue at Pier 30-32 and the termination of the trust
7 use restrictions at Seawall Lot 330 would create substantial new
8 demand for visitor-serving uses at that location and would make
9 those uses financially feasible as part of an overall ~~residential~~
10 *residential, visitor-serving*, and mixed-use development at Seawall
11 Lot 330. Also, Seawall Lot 330 presents an opportunity to enhance
12 the trust value of the project on Pier 30-32 by attracting more
13 people to the waterfront and providing accommodations to people
14 from both the San Francisco region and other areas of the state
15 through visitor-serving uses, which may include visitor-serving
16 retail, ~~restaurants~~ *restaurants*, or hotel use, or any combination of
17 these.

18 SEC. 6. Section 5 of Chapter 489 of the Statutes of 2001, as
19 amended by Section 2 of Chapter 68 of the Statutes of 2003, is
20 amended to read:

21 ~~Sec. 5.~~

22 *Sec. 5.* (a) The Legislature, in the exercise of its retained power
23 as trustee of the public trust, and in view of the unique
24 circumstances existing at Pier 30-32 on the San Francisco
25 waterfront and the considerable statewide public benefit and
26 promotion of the public trust that will be brought about by the
27 preservation, improvement, and modernization of the pier,
28 construction of a new multipurpose venue for events and public
29 assembly, establishment of maritime uses, improved public access,
30 public use and enjoyment of the site, establishment of
31 ~~venue-supporting~~ *venue supporting* or trust retail uses on the site,
32 and additional public trust benefits, hereby authorizes ~~the Port to~~
33 ~~approve~~ a mixed-use development on the San Francisco waterfront
34 at Pier 30-32 that includes a multipurpose venue for events and
35 public assembly, if the ~~Port finds~~ *State Lands Commission finds*,
36 *at a properly noticed public meeting*, that all of the following
37 conditions are met:

38 (1) The mixed-use development is designed to attract people to
39 the waterfront, increase public enjoyment of the San Francisco

1 Bay, encourage public trust activities, and enhance public use of
2 trust assets and resources on the waterfront.

3 (2) (A) The mixed-use development is designed to provide
4 multiple significant views of the Bay Bridge and the San Francisco
5 Bay from a variety of elevations and vantage points, including
6 significant views of the Bay Bridge and the San Francisco Bay
7 from the interior concourses of the multipurpose venue and views
8 of the Bay Bridge from certain seating areas within the
9 multipurpose venue.

10 (B) The multipurpose venue facility is located to minimize
11 interference with public views of San Francisco Bay to the extent
12 feasible.

13 (C) The multipurpose venue facility provides free public access
14 to patrons and nonpatrons alike to exterior portions of the building
15 from which the public can view the San Francisco Bay, subject to
16 reasonable limitations based on security. In addition, to encourage
17 the public to come to the bay's edge, the design of the multipurpose
18 venue shall provide significant free public views of the inside of
19 the multipurpose venue from the outside, and the operator of the
20 multipurpose venue shall be required to allow the public to view
21 the inside of the multipurpose venue from the outside during events
22 whenever feasible.

23 (3) The mixed-use development is designed to achieve and
24 enhance maximum feasible public access to and minimum fill in
25 the bay in a manner that is consistent, as determined by BCDC in
26 its separate permit process, with the Special Area Plan, the
27 McAteer-Petris Act, and the Bay Plan.

28 (4) The mixed-use development includes significant public
29 plazas open to the public on a substantially permanent basis that
30 can be accessed via public pedestrian promenades at the site that
31 encourage public use of the site and provide a variety of views of
32 the San Francisco Bay and the San Francisco cityscape.

33 (5) The mixed-use development includes continuous public
34 access around the perimeter of Pier 30-32 open to the public year
35 round, with limited exceptions for temporary ~~safety-, security-,~~
36 *safety, security,* and maritime-based interruptions, and includes
37 an interpretive program to enhance the public's enjoyment of the
38 site.

1 (6) The mixed-use development includes a significant and
2 appropriate maritime program, which shall be consistent with the
3 Special Area Plan and shall include, but is not limited to:

4 (A) A city fire station and berthing facilities for city fire boats,
5 or, in lieu thereof, one or more other maritime uses on the north
6 side of Pier 30-32.

7 (B) Facilities for berthing at the east end of Pier 30-32, ~~including~~
8 *including, but not limited to*, facilities that can accommodate
9 periodic use by cruise or other deep draft vessels, or other facilities
10 that promote the deep water berth at Pier 30-32.

11 (C) Facilities that enable direct public access to the water by
12 human-powered vessels or swimmers, if feasible, on the south side
13 of Pier 30-32, or water-oriented recreational uses facing the
14 Brannan Street Wharf open water basin.

15 (D) Water-transit docking or berthing facilities for water taxis,
16 ferries, or both.

17 (7) Any nonmaritime office space on Pier 30-32 is limited to
18 70,000 square feet, and any nonmaritime office space provided on
19 Pier 30-32 is for use only by the primary tenants of the
20 multipurpose venue for events and public assembly, the ~~venue~~,
21 *venue* supporting or trust retail uses on Pier 30-32, and the
22 operation and management of the open space and other public
23 facilities on Pier 30-32.

24 (8) ~~All retail venues~~ *Retail uses* on Pier 30-32 are limited to
25 ~~venue supporting or trust retail uses~~ *uses and venue supporting*
26 *retail uses that do not exceed 10,000 square feet per store and*
27 *20,000 feet in the aggregate.*

28 (9) ~~Any parking included on Pier 30-32 is limited to 500 spaces,~~
29 ~~located under active uses on Pier 30-32, substantially screened~~
30 ~~from public view, and designed so that ingress and egress avoids~~
31 ~~material interference with pedestrian, wheelchair, and bicycle~~
32 ~~traffic along Herb Caen Way and material interference with the~~
33 ~~public's access to and use of the open space on the surface of the~~
34 ~~pier. Parking shall be designed to accommodate visitors to the site~~
35 ~~and shall not be reserved for residential use.~~

36 (9) *Parking on Pier 30-32, when not in use for events located*
37 *along the waterfront within the vicinity of the multipurpose venue,*
38 *shall be limited to public parking. Management strategies for the*
39 *public parking, including, but not limited to, time limits and rates,*
40 *shall be structured so that the parking is accessible to visitors to*

1 *Pier 30-32 and use for residential or commuter parking is*
 2 *discouraged.*

3 (10) Public trust-consistent events, uses, and programming are
 4 offered regularly at the site of the mixed-use development. The
 5 site shall be made available to the Port or its designee for those
 6 events on at least 15 days per year, including at least three days
 7 on which the multipurpose venue shall be made available to the
 8 Port or its designee for those events. These events shall include
 9 free and low-cost visitor-serving events.

10 (11) A public community room is available at the site for free
 11 or low-cost use by members of the ~~public~~ statewide *public*, without
 12 preference to local residents or organizations.

13 (12) The development of the site is required to be consistent
 14 with a plan to address anticipated sea-level rise through *the* year
 15 2050, which shall include enforceable strategies incorporating an
 16 adaptive management approach to sea-level rise for the duration
 17 of the ground lease term.

18 (13) The development approved for Seawall Lot 330 includes
 19 a hotel or other visitor-serving uses that ~~the Port finds~~ will
 20 materially enhance public trust uses on Pier 30-32 and the San
 21 Francisco waterfront.

22 (14) *The City has filed a notice of determination for the*
 23 *mixed-use development project at Pier 30-32 under the California*
 24 *Environmental Quality Act (Division 13 (commencing with Section*
 25 *21000) of the Public Resources Code), after the City’s board of*
 26 *supervisors and Port has approved the project, each following at*
 27 *least one public hearing.*

28 (15) *A major permit application for the mixed-use development*
 29 *at Pier 30-32 has been submitted to BCDC.*

30 (b) *The State Lands Commission staff shall consult with BCDC*
 31 *staff prior to placing an action item on the agenda for the State*
 32 *Lands Commission to determine whether the mixed-use*
 33 *development at Pier 30-32 is consistent with the requirements of*
 34 *this section.*

35 ~~(b)~~

36 (c) (1) If a multipurpose venue for events and public assembly
 37 is approved and constructed on Pier 30-32, the Port shall submit
 38 and present at a properly noticed public State Lands Commission
 39 meeting a trust program report to the State Lands Commission, no
 40 later than five years from the date of the opening of the

1 multipurpose venue, and every five years thereafter through the
2 term of the ground lease for the multipurpose venue, that contains
3 all of the following information:

4 (A) A list and description of the trust-related events and
5 programming that have occurred at the site of the mixed-use
6 development and in the multipurpose venue over the preceding
7 five-year period, including the dates on which the events occurred
8 or the multipurpose venue was made available for those events,
9 and identifying any free and low-cost visitor-serving events.

10 (B) A description of the efforts made by the Port, its tenants,
11 and subtenants to publicize the availability of Pier 30-32, including
12 the multipurpose venue, for trust-related events and other efforts
13 undertaken to solicit such events.

14 (C) A description of the maritime program on those portions of
15 Pier 30-32 within the purview of the Port or the City, including a
16 list of the facilities constructed, identification of any tenants,
17 licensees, or other operators of the maritime facilities, and a
18 description of the nature and frequency of the maritime use.

19 (D) A description of the tenants and use of the nonmaritime
20 office space and the use of the public community room on Pier
21 30-32.

22 (E) Any other information specifically requested by the State
23 Lands Commission that pertains to the City or Port program of
24 trust uses for Pier 30-32 and that is reasonably obtainable by the
25 City or Port.

26 (2) (A) The Port, and the City, if applicable, shall work
27 cooperatively with the executive officer of the State Lands
28 Commission to develop an implementation plan if the executive
29 officer of the State Lands Commission, upon review of the trust
30 program report, determines both of the following:

31 (i) That Pier 30-32 is not being used for at least ~~13~~ 15
32 trust-related events annually at the site as a whole or is not being
33 used for at least three trust-related events annually at the
34 multipurpose venue as specified in paragraph (10) of subdivision
35 (a); or, that the City or the Port has not implemented the maritime
36 program for Pier 30-32 for its intended purposes, as specified in
37 paragraph (6) of subdivision (a).

38 (ii) That the Port, or the City, as applicable, has not taken
39 effective action to achieve the objectives specified in clause (i).

1 (B) The executive officer of the State Lands Commission shall
2 provide written notice to the Port and the City of a determination
3 under subparagraph (A) requiring the development of an
4 implementation plan, including the basis for that determination.
5 An implementation plan developed pursuant to this paragraph shall
6 ensure that the objectives of clause (i) of subparagraph (A) are met
7 for the next five-year reporting period and shall be consistent with
8 the terms and conditions set forth in governmental approvals for
9 development of the project and in then-existing leases and other
10 contracts affecting use of the site, including rights of leasehold
11 mortgagees under those contracts. In accordance with this
12 subparagraph, the implementation plan may include a plan for
13 improving outreach, publicity, or marketing efforts for trust events
14 or to attract maritime operators or users.

15 (3) In conjunction with the Port's report required in paragraph
16 (1), the tenant of the multipurpose venue shall submit and, if
17 requested by the executive officer of the State Lands Commission,
18 present at a properly noticed public State Lands Commission
19 meeting, an informational report to the State Lands Commission
20 describing how the event program at the multipurpose venue is
21 meeting the objectives for use of that venue set forth in paragraph
22 (2) of subdivision (a).

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

25 Sec. 6. The Legislature finds and declares that the 2000
26 amendments of the Bay Plan and the Special Area Plan by BCDC
27 are authorized under subdivision (f) of Section 66632 of the
28 Government Code as necessary to protect the health, safety, and
29 welfare of the public in the entire bay area, and BCDC's actions
30 with respect to those amendments are hereby ratified and
31 confirmed.

32 SEC. 8. Section 7 of Chapter 489 of the Statutes of 2001, as
33 amended by Section 3 of Chapter 68 of the Statutes of 2003, is
34 amended to read:

35 Sec. 7. (a) Any legislative or regulatory requirement for
36 findings of consistency with the public trust doctrine or the Burton
37 Act trust under the Special Area Plan, the Bay Plan, or any other
38 applicable statute, regulation, or plan shall be deemed satisfied if
39 the ~~Port~~ *State Lands Commission* has ~~made a finding~~ *found* that

1 the ~~Pier 30-32~~ *mixed-use* development on Pier 30-32 is consistent
2 with the requirements of Section ~~5~~ 6 of this act. ~~Except~~

3 (b) *Except* with respect to a finding of consistency with the
4 public trust doctrine, nothing in this act is intended to limit the
5 authority and discretion of BCDC to approve or deny permits for
6 the ~~multiuse~~ *mixed-use* development plan on Pier 30-32 generally
7 described in this act in a manner consistent with the McAteer-Petris
8 Act, the Bay Plan, and the Special Area Plan, including the
9 authority and discretion of BCDC to impose conditions on the
10 permits for the project. *Except as provided in subdivision (a), the*
11 *project's consistency with the requirements of Section 6 of this act*
12 *shall not be conclusive on BCDC in the exercise of its discretion*
13 *to determine whether the mixed-use development on Pier 30-32 is*
14 *consistent with the McAteer-Petris Act and the policies of the Bay*
15 *Plan and the Special Area Plan.* This act shall not limit the
16 authority and discretion of BCDC to enforce permits issued for
17 the projects described in this act.

18 (c) *In its environmental analysis pursuant to the California*
19 *Environmental Quality Act (Division 13 (commencing with Section*
20 *21000) of the Public Resources Code), the City shall examine*
21 *distributed parking alternatives to serve events at the multipurpose*
22 *venue designed to minimize traffic impacts on the Embarcadero*
23 *and on the Herb Caen Way promenade, including, but not limited*
24 *to, parking alternatives on the west side of the Embarcadero, before*
25 *finalizing a planned number of parking spaces.*

26 (d) *In its major permit for the project, BCDC may establish a*
27 *maximum number of parking spaces on Pier 30-32 and parking*
28 *management operational measures for that parking, consistent*
29 *with the McAteer-Petris Act, the Bay Plan, the Special Area Plan,*
30 *and the following criteria:*

31 (1) *The amount of parking shall not exceed the minimum amount*
32 *necessary to accommodate the public's use of Pier 30-32, taking*
33 *into account land and water public transportation systems and*
34 *offsite parking facilities that serve or are planned to serve the site.*

35 (2) *Parking shall be located under active uses on Pier 30-32*
36 *and shall be screened from public view.*

37 (3) *Structures enclosing the parking shall be constructed to*
38 *minimize impacts on views to public access areas on Pier 30-32*
39 *and to the Bay and on the usability and attractiveness of public*
40 *access on top of the parking structure.*

1 (4) *Parking on the pier, and any new signalized intersection*
 2 *made necessary by parking on the pier, shall not materially impair*
 3 *the current and future use of Herb Caen Way as a regionally*
 4 *significant pedestrian, bicycle and public access way, and the*
 5 *provision of ground-level perimeter access on the pier.*

6 (e) (1) *The Pier 30-32 project shall include offsite public*
 7 *benefits that would not ordinarily be required in a major permit,*
 8 *which benefits shall be developed through a public process*
 9 *conducted by BCDC and the Port and approved by BCDC, either*
 10 *through this section or through an amendment to the Special Area*
 11 *Plan.*

12 (2) *In considering whether to issue a major permit for the*
 13 *mixed-use development on Pier 30-32 that the State Lands*
 14 *Commission has found to be consistent with Section 6 of this act,*
 15 *BCDC may consider the offsite public benefits proposed as part*
 16 *of the development project developed pursuant to paragraph (1),*
 17 *together with the project’s onsite public benefits, in determining*
 18 *whether the project is consistent, on balance, with the adopted*
 19 *policies of the Bay Plan and Special Area Plan, including, but not*
 20 *limited to, the Special Area Plan policies for piers not designated*
 21 *for removal, which apply to Pier 30-32.*

22 (3) *For purposes of this subdivision public benefits developed*
 23 *pursuant to this section may include but are not limited to, any of*
 24 *the following:*

25 (A) *Rehabilitation of a Port historic structure or a substantial*
 26 *portion thereof.*

27 (B) *Bay view enhancement by accelerating the removal of a*
 28 *pier shed or other structure presently obstructing public views of*
 29 *the bay. If the removal of the structure is not currently required*
 30 *pursuant to the Special Area Plan and the removal of the structure*
 31 *provides bay views of a similar quality to that afforded by removal*
 32 *of a Port historic structure currently required by the Special Area*
 33 *Plan, any such removal shall be deemed to satisfy the existing*
 34 *requirement for removal of a Port historic structure.*

35 (C) *Bicycle or pedestrian improvements to enhance public*
 36 *access in the vicinity of the Pier 30-32 site.*

37 SEC. 9. Section 8 of Chapter 489 of the Statutes of 2001 is
 38 amended to read:

39 Sec. 8. (a) For the purpose of effectuating the sale of the street,
 40 including the conveyance of the street by the city, free of the public

1 trust and the Burton Act trust, the State Lands Commission may
2 convey to the city by patent all of the rights, title, and interest held
3 by the state by virtue of its sovereign trust title to the street,
4 including any public trust interest or Burton Act reservation or
5 trust interest, not heretofore conveyed, subject to any reservations
6 the State Lands Commission determines appropriate.

7 (b) In any case in which the state, pursuant to this act, conveys
8 filled tidelands and submerged lands transferred to the city pursuant
9 to the Burton Act, the state shall reserve all minerals and all mineral
10 rights in the lands of every kind and character now known to exist
11 or hereafter discovered, including, but not limited to, oil and gas
12 and rights thereto, together with the sole, exclusive, and perpetual
13 right to explore for, remove, and dispose of those minerals by any
14 means or methods suitable to the state or to its successors and
15 assignees, except that, notwithstanding the Burton Act, or Section
16 6401 of the Public Resources Code, any such reservation shall not
17 include the right of the state or its successors or assignees in
18 connection with any mineral exploration, removal, or disposal
19 activity, to do either of the following:

20 (1) Enter upon, use, or damage the surface of the lands or
21 interfere with the use of the surface by any grantee or by the
22 grantee's successors or assignees.

23 (2) Conduct any mining activities of any nature whatsoever
24 above a plane located 500 feet below the surface of the lands
25 without the prior written permission of any grantee of the lands or
26 the grantee's successors or assignees.

27 (c) This section does not require the state, the city, or the Port
28 to reserve mineral rights in any portion of Seawall Lot 330,
29 including any portion of the street, that is conveyed pursuant to
30 AB 418.

31 SEC. 10. Section 9 of Chapter 489 of the Statutes of 2001 is
32 amended to read:

33 Sec. 9. The city may, pursuant to Section 3 of Article X of the
34 California Constitution, sell the street to any private person,
35 partnership, or corporation, with the approval of the State Lands
36 Commission, if the city first finds that the sale is consistent with
37 the legislative findings and declarations set forth in Section 3. That
38 sale shall not be effective unless and until the State Lands
39 Commission, at a regular open meeting with the proposed sale of

1 the street as a properly scheduled agenda item, ~~does~~ *does*, or has
2 done, all of the following:

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

6 (b) Adopts, or has adopted, a resolution approving the sale that
7 finds and declares that the street has been filled and reclaimed, is
8 cut off from access to the waters of San Francisco Bay, and is no
9 longer needed or required for the promotion of the public trust or
10 the Burton Act trust, and that no substantial interference with the
11 public trust or Burton Act trust uses and purposes will ensue by
12 virtue of the sale. The resolution shall also declare that the sale is
13 consistent with the findings and declarations in Section 3, and the
14 sale is in the best interests of the state and city. Upon adoption of
15 the resolution, or at a time that is specified in the resolution, the
16 street shall thereupon be free from the public trust and the Burton
17 Act trust.

18 (c) Finds, or has found, that the proceeds for the sale of the
19 street will be devoted to trust-related capital improvements by the
20 Port.

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

24 SEC. 11. Section 11 of Chapter 489 of the Statutes of 2001 is
25 amended to read:

26 Sec. 11. A deed, patent, agreement, or other instrument
27 executed in furtherance of this act, or an action of the state, the
28 city, or the Port to approve the use, lease, or conveyance of any
29 portion of port property subject to this act, or to approve project
30 agreements, grant entitlements, or permits, or issue bonds or other
31 indebtedness in connection with the use and development of that
32 property in accordance with this act, shall be conclusively
33 presumed to be valid, unless held to be invalid in an appropriate
34 proceeding in a court of competent jurisdiction to determine the
35 validity of the instrument, agreement, or approval commenced
36 within 60 days after the recording of the instrument or agreement,
37 or the recording of a memorandum evidencing the instrument or
38 agreement, or, in the case of an approval, within 60 days after the
39 approval.

1 SEC. 12. Section 13 of Chapter 489 of the Statutes of 2001 is
2 amended to read:

3 Sec. 13. (a) An action may be brought under Chapter 4
4 (commencing with Section 760.010) of Title 10 of Part 2 of the
5 Code of Civil Procedure to establish title to any lands conveyed
6 pursuant to this act or by the parties to any agreement regarding a
7 street sale or exchange of land entered into pursuant to this act or
8 pursuant to Chapter 310 of the Statutes of 1987 to confirm the
9 validity of the agreement. Notwithstanding Section 764.080 of the
10 Code of Civil Procedure, the statement of decision in the action
11 shall include a recitation of the underlying facts and a determination
12 whether the conveyance or agreement meets the requirements of
13 this act, and, if applicable, Chapter 310 of the Statutes of 1987,
14 Sections 3 and 4 of Article X of the California Constitution, and
15 any other law applicable to the validity of the conveyance or
16 agreement.

17 (b) For purposes of Section 764.080 of the Code of Civil
18 Procedure, and unless otherwise agreed in writing, an agreement
19 entered into pursuant to this act shall be deemed to be entered into
20 on the date it is executed by the executive officer of the State Lands
21 Commission, who shall be the last of the parties to sign prior to
22 the signature of the Governor. The effective date of the agreement
23 shall be deemed to be the date on which it is executed by the
24 Governor pursuant to Section 6107 of the Public Resources Code.

25 (c) An action may be brought under Chapter 9 (commencing
26 with Section 860) of Title 10 of Part 2 of the Code of Civil
27 Procedure to determine the legality and validity of a deed, patent,
28 agreement, or other instrument executed in furtherance of or
29 authorized by this act, or an action of the city or Port to use, lease,
30 or convey any property, or to approve project agreements, grant
31 entitlements, or permits, or issue bonds or other indebtedness in
32 connection with the use and development of that property, in
33 accordance with this act. Prior to the filing of an action, the
34 Attorney General and the executive officer of the State Lands
35 Commission shall be provided written notice of the action and a
36 copy of the complaint. An action authorized by this subdivision
37 may be combined with an action authorized by subdivision (a).

38 SEC. 13. Section 14 of Chapter 489 of the Statutes of 2001 is
39 amended to read:

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

6 (b) If a mixed-use development at Pier 30-32 that includes a
7 multipurpose venue for events and public assembly meeting the
8 conditions of Section 5 6 of this act has not been approved within
9 10 years of the effective date of this act, the provisions of Section
10 5 6 and Section 7 8 of this act shall become inoperative as of the
11 date that is 10 years from the effective date of this act.

12 SEC. 14. For purposes of this act, subdivision (d) of Section
13 9 of AB 418 shall not apply to any sale of Seawall Lot 330 if the
14 proceeds of the sale are applied to the cost of rehabilitating the
15 Pier 30-32 substructure or the cost of constructing maritime or
16 public access improvements on Pier 30-32.

17 SEC. 15. The Legislature finds and declares that a special law
18 is necessary and that a general law cannot be made applicable
19 within the meaning of Section 16 of Article IV of the California
20 Constitution because of the unique circumstances applicable only
21 to the trust lands described in this act.