

ASSEMBLY BILL

No. 2764

**Introduced by Committee on Natural Resources (Chesbro (Chair),
Grove (Vice Chair), Garcia, Muratsuchi, Skinner, Stone, and
Williams)**

March 27, 2014

An act to amend Sections 6306 and 8750 of the Public Resources Code, relating to state lands.

LEGISLATIVE COUNSEL'S DIGEST

AB 2764, as introduced, Committee on Natural Resources. State Lands Commission.

(1) Existing law requires that every local trustee of granted public trust lands, as defined and except as provided, file with the State Lands Commission, on or before October 1 of each year, a detailed statement of all revenues and expenditures relating to its trust lands and trust assets, as prescribed, including obligations incurred, but not yet paid, covering the fiscal year preceding the submission of the statement.

This bill instead would require the statement to be filed with the commission on or before December 31 of each year.

(2) The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including emergency drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government. Existing law imposes various administrative civil and criminal penalties on a person that violates specified provisions of the act. The act, for purposes of specified provisions primarily under the jurisdiction of the State Lands

Commission, defines marine waters to exclude waters in the Sacramento-San Joaquin Rivers and Delta, as specified.

This bill would no longer exclude from the definition of marine waters for this purpose the waters in the Sacramento-San Joaquin Rivers and Delta and would further revise the definition of marine waters to include waterways used for waterborne commercial vessel traffic to the Port of Sacramento and the Port of Stockton. By expanding the scope of crimes within the act, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 6306 of the Public Resources Code is
2 amended to read:

3 6306. (a) For purposes of this division, “local trustee of granted
4 public trust lands” means a county, city, or district, including a
5 water, sanitary, regional park, port, or harbor district, or any other
6 local, political, or corporate subdivision that has been granted,
7 conveyed, or transferred by statute, public trust lands, including
8 tidelands, submerged lands, or the beds of navigable waters,
9 through a legislative grant. A local trustee of granted public trust
10 lands is a trustee of state lands.

11 (b) Notwithstanding any other law, every local trustee of granted
12 public trust lands shall establish and maintain accounting
13 procedures, in accordance with generally accepted accounting
14 principles, providing accurate records of all revenues received
15 from the trust lands and trust assets and of all expenditures of those
16 revenues. If a trust grantee has several trust grants of adjacent lands
17 and operates the granted lands as a single integrated entity,
18 separation of accounting records for each trust grant is not required.

19 (c) All revenues received from trust lands and trust assets
20 administered or collected by a local trustee of granted public trust
21 lands shall be expended only for those uses and purposes consistent

1 with the public trust for commerce, navigation, and fisheries, and
2 the applicable statutory grant.

3 (d) All funds received or generated from trust lands or trust
4 assets shall be segregated in separate accounts from nontrust
5 received or generated funds.

6 (e) (1) Unless otherwise prescribed by an applicable statutory
7 grant, on or before ~~October 1~~ *December 31* of each year, each local
8 trustee of granted public trust lands shall file with the commission
9 a detailed statement of all revenues and expenditures relating to
10 its trust lands and trust assets, including obligations incurred but
11 not yet paid, covering the fiscal year preceding submission of the
12 statement.

13 (2) The statement shall be prepared in accordance with generally
14 accepted accounting principles and may take the form of an annual
15 audit prepared by or for the local trustee of granted public trust
16 lands.

17 (3) (A) The detailed statement shall be submitted along with a
18 standardized reporting form developed by the commission.

19 (B) The commission shall use an existing reporting form
20 previously developed for purposes of this paragraph, if a finding
21 is made by the commission that it is generally responsive to the
22 needs of the commission as prescribed in this section. Alternatively,
23 the commission may develop a reporting form that requires a local
24 trustee of granted public lands to report on all of the following:

25 (i) A summary of all funds received or generated from trust
26 lands or trust assets.

27 (ii) A summary of all spending of funds received or generated
28 from trust lands or trust assets.

29 (iii) Any other disposition of funds received or generated from
30 trust lands or trust assets or of the trust lands or trust assets
31 themselves.

32 (iv) A description of the manner in which the statement required
33 by this subdivision and accompanying the reporting form is
34 organized.

35 (v) Any other information that the commission deems to be
36 included in an accounting of granted public trust lands.

37 (C) The adoption of the form by the commission pursuant to
38 this subdivision is the prescription of a form for purposes of
39 subdivision (c) of Section 11340.9 of the Government Code.

1 (4) All forms and supporting statements submitted pursuant to
2 this section shall be public records and be made available on the
3 commission’s Internet Web site.

4 (f) (1) The costs that may be incurred by a local trustee of
5 granted public trust lands that result from any new duties imposed
6 upon that trustee ~~by the act amending this section in the 2011–12~~
7 ~~Regular Session of the Legislature, pursuant to Chapter 206 of~~
8 ~~the Statutes of 2012~~, including the requirement to submit a
9 standardized reporting form required by paragraph (3) of
10 subdivision (e), shall be paid from the revenues derived from its
11 granted public trust lands and assets specified in subdivision (b).

12 (2) If the revenues derived from the granted public trust lands
13 and assets specified in subdivision (b) are not sufficient to pay the
14 costs for the duties specified in paragraph (1), the commission
15 shall exempt the local trustee of granted public trust lands from
16 performing those duties for which the revenues are not sufficient,
17 or grant a deadline extension from the performance of those duties
18 until sufficient funds are available.

19 SEC. 2. Section 8750 of the Public Resources Code is amended
20 to read:

21 8750. Unless the context requires otherwise, the following
22 definitions govern the construction of this division:

23 (a) “Administrator” means the administrator for oil spill response
24 appointed by the Governor pursuant to Section 8670.4 of the
25 Government Code.

26 (b) “Barges” means any vessel that carries oil in commercial
27 quantities as cargo but is not equipped with a means of
28 self-propulsion.

29 (c) (1) “Best achievable protection” means the highest level of
30 protection ~~which that~~ can be achieved through both the use of the
31 best achievable technology and those manpower levels, training
32 procedures, and operational methods ~~which that~~ provide the
33 greatest degree of protection achievable. The administrator’s
34 determination of best achievable protection shall be guided by the
35 critical need to protect valuable coastal resources and marine
36 waters, while also considering (A) the protection provided by the
37 measures, (B) the technological achievability of the measures, and
38 (C) the cost of the measures.

39 (2) It is not the intent of the Legislature that the administrator
40 use a cost-benefit or cost-effectiveness analysis or any particular

1 method of analysis in determining which measures to require.
2 Instead, it is the intent of the Legislature that the administrator
3 give reasonable consideration to the protection provided by the
4 measures, the technological achievability of the measures, and the
5 cost of the measures when establishing the requirements to provide
6 the best achievable protection for coastal and marine resources.

7 (d) “Best achievable technology” means that technology ~~which~~
8 *that* provides the greatest degree of protection taking into
9 consideration (1) processes ~~which~~ *that* are being developed, or
10 could feasibly be developed anywhere in the world, given overall
11 reasonable expenditures on research and development, and (2)
12 processes ~~which~~ *that* are currently in use anywhere in the world.
13 In determining what is best achievable technology, the
14 administrator shall consider the effectiveness and engineering
15 feasibility of the technology.

16 (e) “Commission” means the State Lands Commission.

17 (f) “Local government” means any chartered or general law
18 city, chartered or general law county, or any city and county.

19 (g) “Marine facility” means any facility of any kind, other than
20 a vessel, ~~which~~ *that* is or was used for the purposes of exploring
21 for, drilling for, producing, storing, handling, transferring,
22 processing, refining, or transporting oil and is located in marine
23 waters, or is located where a discharge could impact marine waters
24 unless the facility (1) is subject to Chapter 6.67 (commencing with
25 Section 25270) or Chapter 6.75 (commencing with Section
26 25299.10) of Division 20 of the Health and Safety Code or (2) is
27 placed on a farm, nursery, logging site, or construction site and
28 does not exceed 20,000 gallons in a single storage tank. For ~~the~~
29 purposes of this division, a drill ship, semisubmersible drilling
30 platform, jack-up type drilling rig, or any other floating or
31 temporary drilling platform is a “marine facility.” For ~~the~~ purposes
32 of this division, a small craft refueling dock is not a “marine
33 facility.”

34 (h) “Marine terminal” means any marine facility used for
35 transferring oil to or from tankers or barges. For ~~the~~ purposes of
36 this section, a marine terminal includes all piping not integrally
37 connected to a tank facility as defined in subdivision ~~(k)~~ (n) of
38 Section 25270.2 of the Health and Safety Code.

39 (i) “Marine waters” means those waters subject to tidal
40 influence, ~~except for waters in the Sacramento-San Joaquin Rivers~~

1 and Delta upstream from a line running north and south through
2 the point where Contra Costa, Sacramento, and Solano Counties
3 meet and includes waterways used for waterborne commercial
4 vessel traffic to the Port of Sacramento and the Port of Stockton.

5 (j) “Nonpersistent oil” means a petroleum-based oil, such as
6 gasoline, diesel, or jet fuel, ~~which~~ *that* evaporates relatively
7 quickly. Specifically, it is an oil with hydrocarbon fractions, at
8 least 50 percent of which, by volume, distills at a temperature of
9 645 degrees Fahrenheit, and at least 95 percent of which, by
10 volume, distills at a temperature of 700 degrees Fahrenheit.

11 (k) “Oil” means any kind of petroleum, liquid hydrocarbons,
12 or petroleum products or any fraction or residues therefrom,
13 including, but not limited to, crude oil, bunker fuel, gasoline, diesel
14 fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and
15 liquid distillates from unprocessed natural gas.

16 (l) “Onshore facility” means any facility of any kind ~~which~~ *that*
17 is located entirely on lands not covered by marine waters.

18 (m) “Operator” when used in connection with vessels, marine
19 terminals, pipelines, or facilities, means any person or entity ~~which~~
20 *that* owns, has an ownership interest in, charters, leases, rents,
21 operates, participates in the operation of or uses that vessel,
22 terminal, pipeline, or facility. “Operator” does not include any
23 entity ~~which~~ *that* owns the land underlying the facility or the
24 facility itself, where the entity is not involved in the operations of
25 the facility.

26 (n) “Person” means an individual, trust, firm, joint stock
27 company, or corporation, including, but not limited to, a
28 government corporation, partnership, limited liability company,
29 and association. “Person” also includes any city, county, city and
30 county, district, and the state or any department or agency thereof,
31 and the federal government, or any department or agency thereof,
32 to the extent permitted by law.

33 (o) “Pipeline” means any pipeline used at any time to transport
34 oil.

35 (p) “Responsible party” or “party responsible” means either of
36 the following:

37 (1) The owner or transporter of oil or a person or entity accepting
38 responsibility for the oil.

1 (2) The owner, operator, or lessee of, or person who charters
2 by demise, any vessel or marine facility or a person or entity
3 accepting responsibility for the vessel or marine facility.

4 (q) “Small craft refueling dock” means a fixed facility having
5 tank storage capacity not exceeding 20,000 gallons in any single
6 storage tank and that dispenses nonpersistent oil to small craft.

7 (r) “Spill” or “discharge” means any release of at least one barrel
8 (42 gallons) of oil not authorized by any federal, state, or local
9 government entity.

10 (s) “State oil spill contingency plan” means the California oil
11 spill contingency plan prepared pursuant to Article 3.5
12 (commencing with Section 8574.1) of Chapter 7 of Division 1 of
13 Title 2 of the Government Code.

14 (t) “Tanker” means any self-propelled, waterborne vessel,
15 constructed or adapted for the carriage of oil in bulk or in
16 commercial quantities as cargo.

17 (u) “Vessel” means a tanker or barge as defined in this section.

18 SEC. 3. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.

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