

Assembly Bill No. 2764

Passed the Assembly August 28, 2014

Chief Clerk of the Assembly

Passed the Senate August 27, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 126 of the Government Code, to amend Section 39512.5 of the Health and Safety Code, to amend Section 6306 of the Public Resources Code, and to amend Section 1 of Chapter 321 of the Statutes of 1961, relating to public resources.

LEGISLATIVE COUNSEL’S DIGEST

AB 2764, Committee on Natural Resources. Public resources.

(1) Existing law establishes the State Lands Commission in the Natural Resources Agency and prescribes the functions and duties of the commission. Under current law, the State Lands Commission cedes concurrent criminal jurisdiction to the United States with regard to specified properties.

This bill would revise and recast these provisions and make technical and organizational changes.

(2) 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.

(3) Existing law authorizes a grant in the form of a trust of specified tidelands and submerged lands to the County of Orange, subject to certain restrictions, including that the lands remain available for public use.

This bill would modify the terms of the grant to change the conditions for expenditures by the trust and to permit the trustee to acquire additional property in order to further the purposes of the trust, if specific conditions are met.

(4) Existing law establishes the State Air Resources Board, which is responsible for control of emissions from motor vehicles and is designated the air pollution control agency for all purposes set forth in federal law. Existing law requires the state board to consist of 12 members, who are appointed based on certain

qualifications. Existing law provides for the compensation of those members.

This bill would correct an erroneous cross-reference to clarify that certain members of the state board are prohibited from receiving compensation for serving on the state board, but are required to be reimbursed for their actual and necessary expenses, as specified.

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

SECTION 1. Section 126 of the Government Code is amended to read:

126. (a) Notwithstanding any other provision of law, general or special, the Legislature of California, acting through the State Lands Commission, hereby cedes concurrent criminal jurisdiction to the United States within lands identified and held by the United States upon and subject to each and all of the following express limitations, conditions, and reservations, in addition to any other limitations, conditions, or reservations prescribed by law:

(1) Before making a cession, the State Lands Commission shall make the following findings:

(A) The United States has requested in writing the state to cede concurrent criminal jurisdiction within the identified lands.

(B) The lands are held by the United States for the erection of forts, magazines, arsenals, dockyards, and other needful buildings within the purview of clause 17 of Section 8 of Article I of the United States Constitution, or for any other federal purposes. For purposes of this section, lands held by the United States are defined as: (i) lands acquired in fee by purchase or condemnation, (ii) lands owned by the United States that are included in the military reservation by presidential proclamation or act of Congress, (iii) any other lands owned by the United States, including, but not limited to, public domain lands that are held for a public purpose, and (iv) leaseholds acquired by the United States over private lands or state-owned lands that are held for a public purpose.

(C) The cession is made pursuant to and in compliance with the laws of the United States.

(D) A notice of the proposed cession has been given to the clerk for the board of supervisors of the county in which the federal lands are located at least 15 days before the proposed cession.

(E) The proposed cession is in the best interests of the State of California.

(F) The United States has agreed to bear all costs and expenses incurred by the State Lands Commission in making the cession.

(2) The cession shall continue only so long as the lands are owned by the United States and used for the purposes for which jurisdiction is ceded or for 10 years, whichever period is less.

(3) The cession shall be made at a publicly noticed meeting of the State Lands Commission. The cession shall vest when the State Lands Commission has received notice of the United States' acceptance of the cession and certified copies of the State Lands Commission's orders or resolutions making the findings described in paragraph (1) have been recorded in the office of the county recorder of each county in which any part of the land is situated. The State Lands Commission shall keep copies of its orders or resolutions in its records and make them available to the public upon request.

(b) In ceding concurrent criminal jurisdiction, the Legislature and the state reserve jurisdiction over the land, water, and use of water with full power to control and regulate the acquisition, use, control, and distribution of water with respect to the land affected by the cession.

SEC. 2. Section 39512.5 of the Health and Safety Code is amended to read:

39512.5. (a) With respect to the members appointed pursuant to subdivision (d) of Section 39510, those members shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties to the extent that reimbursement for expenses is not otherwise provided or payable by another public agency or agencies. Each elected public official member of the state board shall receive one hundred dollars (\$100) for each day, or portion thereof, but not to exceed one thousand dollars (\$1,000) in any month, attending meetings of the state board or committees thereof, or upon authorization of the state board while on official business of the state board.

(b) Reimbursements made pursuant to subdivision (a) shall be made as follows:

(1) A member appointed from a district that is specifically named in subdivision (d) of Section 39510 shall be reimbursed by the district from which the person qualified for membership.

(2) The member appointed as a board member of a district that is not specifically named in subdivision (d) of Section 39510 shall be reimbursed by the state board.

SEC. 3. Section 6306 of the Public Resources Code is amended to read:

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

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

(c) All revenues received from trust lands and trust assets administered or collected by a local trustee of granted public trust lands shall be expended only for those uses and purposes consistent with the public trust for commerce, navigation, and fisheries, and the applicable statutory grant.

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

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

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

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

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

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

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

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

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

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

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

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

(f) (1) The costs that may be incurred by a local trustee of granted public trust lands that result from any new duties imposed upon that trustee pursuant to Chapter 206 of the Statutes of 2012, including the requirement to submit a standardized reporting form required by paragraph (3) of subdivision (e), shall be paid from the revenues derived from its granted public trust lands and assets specified in subdivision (b).

(2) If the revenues derived from the granted public trust lands and assets specified in subdivision (b) are not sufficient to pay the costs for the duties specified in paragraph (1), the commission

shall exempt the local trustee of granted public trust lands from performing those duties for which the revenues are not sufficient, or grant a deadline extension from the performance of those duties until sufficient funds are available.

SEC. 4. Section 1 of Chapter 321 of the Statutes of 1961 is amended to read:

Section 1. There is hereby granted to the County of Orange and to its successors all of the right, title and interest of the State of California held by the state by virtue of its sovereignty in and to all that portion of the tidelands and submerged lands of the Pacific Ocean within the County of Orange, State of California, in the following area:

Commencing at the intersection of the westerly line of fractional Section 22, Township 8 South, Range 8 West, San Bernardino Base and Meridian with the line of Mean High Tide of the Pacific Ocean from which point said westerly Section line bears North 0° 07' East; thence South 45° 00' East to the point of intersection with a line parallel to and five thousand seven hundred and fifty feet (5,750 ft.) southerly of the northerly line of said fractional Section 22; thence easterly along said last mentioned parallel line, 5,750 feet southerly of the northerly line of Section 22, and the easterly prolongation of said parallel line to the point of intersection with a meridian line passing through the intersection of the westerly line of Rancho Boca de la Playa as said line is established and shown on a map recorded in Book 4, Pages 118 and 119 of Patents, Records of Los Angeles County, June 29, 1887, and the line of Mean High Tide of the Pacific Ocean; thence northerly along said meridian line to the intersection with the line of Mean High Tide of the Pacific Ocean; thence westerly along said line of Mean High Tide to the point of beginning, the same to be forever held by the county and by its successors in trust for the uses and purposes and upon the express conditions following, to wit:

(a) That these lands shall be used by the county, and its successors, only for the establishment, improvement, and conduct of a harbor, and for the construction, maintenance, and operation thereon of wharves, docks, piers, slips, quays, and other utilities, structures, facilities, and appliances necessary or convenient for the promotion and accommodation of commerce and navigation, and for recreational use, public park, parking, highway, playground, and business incidental thereto; and the county, or its successors,

shall not, at any time, grant, convey, give, or alien these lands, or any part thereof, to any individual, firm, or corporation for any purposes whatever; provided, that the county, or its successors, may grant franchises thereon for limited periods (but in no event exceeding 50 years), for wharves and other public uses and purposes and may lease these lands, or any part thereof, for limited periods (but in no event exceeding 50 years), for purposes consistent with the trust upon which these lands are held by the State of California, and with the requirements of commerce and navigation at the harbor, and collect and retain rents from these leases.

(b) That these lands shall be improved by the county without expense to the state, and shall always remain available for public use for all purposes of commerce and navigation, and the State of California shall have at all times, the right to use, without charge, all wharves, docks, piers, slips, quays, and other improvements and facilities constructed on these lands, or any part thereof, for any vessel or other water or aircraft, or railroad, owned or operated by the State of California.

(c) That in the management, conduct, or operation of the harbor, or of any of the utilities, structures, appliances, or facilities mentioned in subdivision (a), no discrimination in rates, tolls, or charges or in facilities for any use or service in connection therewith shall ever be made, authorized, or permitted by the county or its successors.

(d) There is hereby reserved, however, in the people of the State of California the absolute right to fish in the waters of the harbor with the right of convenient access to the waters over these lands for these purposes.

(e) There is hereby excepted and reserved to the State of California all deposits of minerals, including oil and gas, in the land, and to the State of California, or persons authorized by the State of California, the right to prospect for, mine, and remove deposits from the land.

(f) The lands herein described are granted subject to the express reservation and condition that the state may at any time in the future use these lands or any portion thereof for highway purposes without compensation to the county, its successors or assigns, or any person, firm, or public or private corporation claiming under it, except that in the event improvements have been placed upon

the property taken by the state for these purposes, compensation shall be made to the person entitled thereto for the value of his or her interest in the improvements taken or the damages to the interest.

(g) That within 10 years from the effective date of this act these lands shall be substantially improved by the county without expense to the state, and if the State Lands Commission determines that the county has failed to improve these lands as herein required, all right, title, and interest of the county in and to all lands granted by this act shall cease and these lands shall revert and vest in the state.

(h) (1) That any funds derived from the management, conduct, or operation of the lands described in this section shall be used within the geographic boundary of the lands for purposes consistent with subdivision (a).

(2) Notwithstanding paragraph (1), funds derived from the management, conduct, or operation of these lands may also be expended on state-owned tidelands and submerged lands, outside the geographic boundary of these lands within the County of Orange and southeasterly of the southern city limits of the City of Laguna Beach, to fund the portion of the Dana Point Branch of the Orange County Harbor Patrol that provides direct protection for public health, safety, and security relating to navigation and other public trust uses on state-owned tidelands and submerged lands.

(i) (1) Notwithstanding subdivision (h), any funds derived from the management, conduct, or operation of the lands described in this section may be used to purchase, lease, or otherwise acquire real property necessary for or incidental to the development and operation of a harbor and that property shall be held as an asset of the trust and used for purposes consistent with the trust grant.

(2) If the real property that is proposed to be purchased, leased, or acquired is adjacent to the geographic boundary of the lands, the county, or its successors, shall give written notice of the proposed expenditure to the State Lands Commission at least 90 days before purchasing, leasing, or acquiring the real property in excess of one hundred thousand dollars (\$100,000), but not more than five hundred thousand dollars (\$500,000). Expenditures in excess of five hundred thousand dollars (\$500,000) for real property adjacent to the geographic boundary of those lands shall

not be made unless the State Lands Commission approves the expenditure pursuant to Chapter 2 (commencing with Section 6701) of Part 2 of Division 6 of the Public Resources Code. For the purpose of this subdivision, “adjacent” means adjoining or separated by a street or road.

(3) If the real property that is proposed to be purchased, leased, or acquired is not adjacent to the geographic boundary of the lands, the county, or its successors, shall give written notice of the proposed expenditure to the State Lands Commission at least 90 days before purchasing, leasing, or acquiring the real property not to exceed fifty thousand dollars (\$50,000). Expenditures in excess of fifty thousand dollars (\$50,000) for real property not adjacent to the geographic boundary of those lands may not be made unless the State Lands Commission approves the expenditure pursuant to Chapter 2 (commencing with Section 6701) of Part 2 of Division 6 of the Public Resources Code.

(4) The notice required in paragraphs (2) and (3) shall include the total proposed expenditure from the tideland’s trust, the location of the real property, the purpose of the purchase, acquisition, or lease, and an explanation of how the purchase, acquisition, or lease is consistent with the terms of the trust grant.

Approved _____, 2014

Governor