

AMENDED IN SENATE AUGUST 25, 2000
AMENDED IN SENATE JUNE 20, 2000
AMENDED IN ASSEMBLY MARCH 29, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2273

Introduced by Assembly Member Aroner
(Coauthor: Senator Perata)

February 24, 2000

An act to amend Sections 4 and 5 of Chapter 317 of the Statutes of 1913, relating to City of Richmond tidelands, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2273, as amended, Aroner. City of Richmond tidelands.

Existing law authorizes the City of Richmond to lease, for a term not to exceed 25 years, any wharves, docks, or piers constructed by it.

This bill, in addition to authorizing the lease of wharves, docks, and piers, would authorize the City of Richmond to lease other aids or improvements to commerce, navigation, and other trust purposes. The bill also would increase to 55 years the term of the leases the city is authorized to enter.

The bill would authorize the State Lands Commission to make certain conveyances of tide, submerged, and other lands, enter into agreements, execute patents, and receive and accept lands, for the purposes of effectuating enumerated

exchanges, agreements, and adjustments related to the Richmond Harbor Development Area and lands included in Tideland Survey Number Eight.

The bill would authorize the City of Richmond to terminate the public trust over portions of granted tidelands under certain circumstances.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

- 1 SECTION 1. As used in this act:
- 2 (a) “City” means the City of Richmond, a municipal
- 3 corporation of the State of California, in Contra Costa
- 4 County.
- 5 (b) “Granted lands trust” means the statutory trust
- 6 created by the grant of tidelands to the City of Richmond
- 7 in Chapter 317 of the Statutes of 1913.
- 8 (c) “Public trust” means the public trust for
- 9 commerce, navigation, and fisheries.
- 10 (d) “Redevelopment agency” means the Richmond
- 11 Redevelopment Agency, a public body, corporate and
- 12 politic.
- 13 (e) “Richmond Harbor Development Area” means
- 14 those lands being a portion of Lots 19 and 30 Section 24,
- 15 and a portion of Lot 3, Section 25, Township 1 North,
- 16 Range 5 West, Mount Diablo Base and Meridian, as shown
- 17 on the map entitled “Map No. 1 of Salt Marsh and
- 18 Tidelands” filed June 11, 1917, Rack Map No. 9, in the
- 19 office of the Recorder of Contra Costa County, California,
- 20 more particularly described as follows: The Remainder
- 21 Parcel and Parcel H as shown on Parcel Map MS 753-98
- 22 filed December 29, 1998, in Book 176 of Parcel Maps, Page
- 23 11, Contra Costa County Records.
- 24 ~~(e) “Tideland~~
- 25 (f) “Surplus property authority” means the Surplus
- 26 Property Authority of the City of Richmond, a surplus



1 *property authority created pursuant to the Municipal*
2 *Federal Surplus Property Law of the State of California.*

3 (g) “*Tideland Survey Number Eight*” means those
4 lands being a portion of Sections 24 and 25, Township 1
5 North, Range 5 West, Mount Diablo Base and Meridian
6 described in the patent recorded in Book 1 of Patents,
7 Page 57, January 20, 1868, Contra Costa County Records.

8 SEC. 2. (a) The Legislature hereby finds and
9 declares as follows:

10 (1) Certain of the tide and submerged lands within
11 Tideland Survey Number Eight and the Richmond
12 Harbor Development Area, both filled and unfilled, have
13 been authorized to be, and have been, laid off and sold to
14 private parties pursuant to various acts, including an 1863
15 statute entitled “An Act to Provide for the Sale of certain
16 Lands belonging to the State” (Ch. 397, Stats. 1863) and
17 an 1868 statute entitled “An Act to Survey and Dispose of
18 Certain Salt Marsh and Tidelands belonging to the State
19 of California;” (Ch. 543, Stats. 1867-8), as amended.

20 (2) Certain of the tidelands within Tideland Survey
21 Number Eight and the Richmond Harbor Development
22 Area were authorized to be, and were, granted to the city
23 subject to the public trust and certain other restrictions,
24 by Chapter 317 of the Statutes of 1913.

25 (3) In 1916, the city and certain private claimants of
26 tide and submerged lands entered a land title settlement
27 agreement in an effort to resolve disputed title to tide and
28 submerged lands, including lands within Tideland Survey
29 Number Eight and the Richmond Harbor Development
30 Area. The principal object of the 1916 agreement was to
31 remove obstacles that prevented the implementation of
32 a program of harbor development in furtherance of the
33 city’s 1913 grant. Pursuant to the 1916 agreement, the
34 private parties conveyed to the city tide and submerged
35 lands that had been claimed to be in private ownership
36 and that were needed by the city for the planned
37 program of harbor development. The 1916 agreement
38 further provided, regarding certain other privately
39 claimed lands, that it was the parties’ intention that the
40 private parties’ claimed title to the lands be confirmed.



1 Thereafter, bulkheads were built, channels dredged, fill
2 placed, streets dedicated, and harbor facilities built in
3 reliance on the plan embodied in the 1916 agreement.
4 Properties that were not conveyed to the city were
5 subsequently conveyed by the private parties to others,
6 also in consequence of the 1916 agreement.

7 (4) On one of the parcels not conveyed to the city,
8 Ford Motor Company constructed, in 1931, an
9 automobile assembly building, which has since been
10 listed on the National Register of Historic Places. A
11 portion of the Ford Assembly Building was built on pilings
12 over water, and cargo vessels were used in connection
13 with the operations at the Ford Assembly Building. The
14 Ford Assembly Building has been idle for many years and
15 was severely damaged during the 1989 Loma Prieta
16 earthquake. There is now a plan for adaptive reuse of the
17 Ford Assembly Building, most of which sits on filled land
18 that at one time was tide and submerged land. These
19 plans include provision for public access along the
20 waterfront perimeter of the Ford Assembly Building, as
21 well as commercial recreation uses on the portion of the
22 plant adjacent to the water. The access plans are part of
23 an overall public access plan for the entirety of the
24 Richmond Harbor.

25 (5) There is uncertainty concerning the validity and
26 the geographic extent of title to the parcel upon which
27 the Ford Assembly Building is built and other adjacent
28 and nearby parcels within Tideland Survey Number
29 Eight. There is also uncertainty concerning whether this
30 property is subject to the public trust or other
31 encumbrances that may have arisen because the lands
32 were once sovereign lands of the state. The state contends
33 that a portion of the property was not conveyed by it
34 either to private parties or to the city, and that other
35 portions, assuming that they were legally conveyed, are
36 held today subject to the public trust. The city contends
37 that it or certain other public or private entities hold
38 those disputed areas in fee simple, free of the public trust
39 or any other encumbrances. It is in the public interest that



1 this dispute be resolved in a manner that furthers public
2 trust purposes.

3 (6) These disputes limit the potential development of
4 the Richmond Harbor Development Area *and other*
5 *property within Tideland Survey Number Eight*,
6 threaten the city's ability to preserve the historic Ford
7 Assembly ~~Building and other property within Tideland~~
8 ~~Survey Number Eight Building~~, and render uncertain
9 the expansion of desirable public access and commercial
10 recreation facilities along this portion of the Richmond
11 waterfront.

12 (7) It is intended that the resolution of these disputes
13 and the consolidation and adjustment of public and
14 private ownerships will be accomplished by and through
15 exchanges of and boundary adjustments to lands
16 referenced above. These exchanges and adjustments shall
17 be for the purpose of effectuating the proposals
18 referenced in paragraph (4) for the Richmond Harbor
19 Development Area, including the public trust uses, and
20 facilitating related plans for developing facilities outside
21 the Richmond Harbor Development Area.

22 (8) The proposed exchanges, agreements, and
23 adjustments will not interfere with, and will, in fact, be
24 consistent with and further the purposes of, the public
25 trust if all of the following occur:

26 (A) The value of any lands or interests in lands to be
27 conveyed and made subject to the public trust, the value
28 of any public trust easements to be conveyed or created,
29 and the value of any public trust interest created
30 regarding certain of the areas in dispute, and other areas,
31 taken together, exceeds the combined value of the lands
32 to be conveyed subject to the public trust easement, the
33 land to be conveyed free of any public trust interest and
34 the value of the public trust interest to be terminated
35 pursuant to exchanges, agreements, and adjustments.

36 (B) The lands over which the public trust will be
37 terminated have been filled and reclaimed, those parcels
38 consisting entirely of dry land lying above the present
39 mean high tide line, and are not necessary in their public
40 trust encumbered status for the highly beneficial



1 program for development of the waterfront of the city,
2 represented by the plans for the Richmond Harbor
3 Development Area and plans for related or supporting
4 facilities outside the Richmond Harbor Development
5 Area, due to the current state of the lands.

6 (C) The lands over which the public trust will be
7 terminated are nonwaterfront, having been cut off from
8 direct access to the waters of San Francisco Bay by past
9 filling of intervening property, ~~due to the current state of~~
10 ~~the lands, which limits public access to and utilization of~~
11 ~~the waterfront in the Richmond Harbor Development~~
12 ~~Area.~~

13 (D) Streets in *or serving* the Richmond Harbor
14 Development Area *and other property within Tideland*
15 *Survey Number Eight* have provided, and will continue
16 to provide, public access to the water ~~at the Richmond~~
17 ~~Harbor Development Area.~~

18 (E) The lands over which the public trust will be
19 terminated constitute a relatively small portion of the
20 tidelands granted to the city.

21 (F) The lands over which the public trust will be
22 terminated are no longer needed or required for the
23 promotion of the public trust or the granted lands trust,
24 and the lands to be acquired through the exchange will
25 serve public trust needs.

26 (b) It is therefore the intent of the Legislature, on, and
27 subject to, the terms and conditions set forth in this act,
28 to authorize, ratify, and confirm any agreement by the
29 city *and State Lands Commission, or by the city and State*
30 *Lands Commission with any public or private entity,* to
31 enter into an exchange or exchanges of tide or submerged
32 lands, or settlement regarding conflicting claims of
33 ownership, and by that agreement or settlement
34 terminate the public trust over filled tidelands consistent
35 with the findings and declarations stated in this act.

36 SEC. 3. For the purposes of effectuating the
37 exchanges, agreements, and adjustments referred to in
38 Section 2, the State Lands Commission may do all of the
39 following:



1 (a) Convey to ~~city by patent~~ *the city, redevelopment*
2 *agency, surplus property authority, or any private party,*
3 *by patent,* all of the right, title, and interest held by the
4 state by virtue of its sovereign trust title to tide and
5 submerged lands, including any public trust interest in
6 and to all of the historic tide and submerged lands within
7 the Richmond Harbor Development Area that are now
8 above the mean high tide line, subject to the reservations
9 that the State Lands Commission determines to be
10 appropriate.

11 (b) Because of the factual circumstances listed in
12 Section 2, ~~to~~ enter an agreement and ~~to~~ execute a patent
13 or patents to the city ~~or private parties,~~ *redevelopment*
14 *agency, or any private party* through which it may
15 recognize a proprietary fee interest in lands below the
16 mean high tide line at the Ford Assembly Building,
17 reserving therefrom a public trust easement.

18 (c) In the property included within the perimeter
19 description of Tideland Survey Number Eight, but
20 outside of the Richmond Harbor Development Area, ~~to~~
21 enter into agreements with the city, ~~its entities~~
22 *redevelopment agency, surplus property authority,* or
23 any private party to settle the location and extent of land
24 subject to the public trust, or ~~to~~ enter into exchange
25 agreements pursuant to Section 6307 of the Public
26 Resources Code. Land received or confirmed in the state
27 as public trust lands through such agreements shall be
28 patented by the State Lands Commission to the city, to be
29 held in trust by the city as lands subject to the public trust,
30 and the terms, conditions, and reservations of the granted
31 lands trust and other reservations that may be included
32 in the patents by the State Lands Commission.

33 (d) Receive and accept on behalf of the state in its
34 sovereign capacity any lands or any interest in lands,
35 conveyed to the state in its sovereign capacity ~~by the city~~
36 ~~or by any private party~~ pursuant to this act and pursuant
37 to any exchange, agreement, or adjustment authorized,
38 ratified, or confirmed by this act, including, but not
39 limited to, any public trust easement conveyed to the



1 state in its sovereign capacity ~~by the city or by a private~~
2 ~~party in those lands.~~

3 (e) Convey to the city by patent all of the right, title,
4 and interest of the state in any lands conveyed to the state
5 in its sovereign capacity ~~by the city or by any private~~
6 ~~party~~ pursuant to this act and pursuant to any exchange,
7 agreement, or adjustment authorized, ratified, or
8 confirmed by this act, including, but not limited to, any
9 public trust easement, conveyed to the state in its
10 sovereign capacity ~~by the city or by a private party, in~~
11 ~~those lands,~~ subject to the terms, conditions, and
12 reservations that the State Lands Commission
13 determines are necessary to meet the requirements of
14 this act and the granted lands trust.

15 SEC. 4. In determining the value of any tide or
16 submerged lands to be conveyed under this act, the city
17 and the State Lands Commission shall give effect in their
18 evaluation to all factors bearing upon the value, if any, of
19 the public's interest being conveyed, released,
20 quitclaimed, or settled, and the rights, claims, and
21 equities of the person in whose favor the conveyance,
22 release, quitclaim, or settlement is being made and the
23 predecessors in interest. In those cases in which the
24 lawfully sold tide or submerged lands have been filled,
25 reclaimed, or improved without the expenditure of either
26 state funds or of public moneys held in trust, the lands
27 may be valued by excluding the value of the fill or
28 improvements, or both. Consideration under this act may
29 consist of lands, property, interest in property,
30 easements, moneys, or other things of value given by the
31 grantee or any other person.

32 SEC. 5. Section 4 of Chapter 317 of the Statutes of 1913
33 is amended to read:

34 Sec. 4. The City of Richmond may lease for a term not
35 exceeding 55 years any wharves, docks, piers, or other aids
36 or improvements to commerce, navigation, and other
37 trust purposes constructed by it.

38 SEC. 6. Section 5 of Chapter 317 of the Statutes of 1913
39 is amended to read:



1 Sec. 5. The City of Richmond may lease the lands
2 conveyed to it by Chapter 317 of the Statutes of 1913, for
3 a term not to exceed 55 years and upon which wharves,
4 docks, or other aids or improvements to commerce,
5 navigation, and other trust purposes have not been
6 actually constructed. The leases shall not be assignable or
7 transferable, nor shall any lessee have the right to sublet
8 the leased premises or any part thereof except by the
9 consent of the city council of the City of Richmond set
10 forth in an order of the city council.

11 SEC. 7. (a) Subject to the requirements for approval
12 by the State Lands Commission specified in subdivision
13 (b), whenever it is determined by the city that any
14 portions of the tide or submerged lands granted to the
15 city, by *Chapter 317 of the Statutes of 1913 or other acts*
16 *of the Legislature*, are filled and reclaimed, cut off from
17 access to the waters of San Francisco Bay, constitute a
18 relatively small portion of the tide and submerged lands
19 granted to the city, and are no longer needed or required
20 for the promotion of the public trust for commerce,
21 navigation, and fisheries or the granted lands trust, and
22 when it is further determined that there is no substantial
23 interference with the public trust uses and purposes the
24 city may terminate the public trust over those portions of
25 the tidelands and exchange those portions of the
26 tidelands, or any interest in those lands, to any state
27 agency, political subdivision, person, entity, or
28 corporation, or the United States, or any agency thereof,
29 for lands or interests in lands of equal or greater value and
30 for purposes of the granted lands trust.

31 (b) No exchange and trust termination under
32 subdivision (a) shall be effective unless and until the State
33 Lands Commission, at a regular open meeting with the
34 proposed exchange and trust termination as a properly
35 scheduled agenda item, does both of the following:

36 (1) Finds that the lands or interests in lands to be
37 acquired by the city and the value of the public trust
38 interest to be created by agreement of the city have a
39 value equal to or greater than the value of the tidelands



1 for which they are to be exchanged and the value of the
2 tidelands over which the public trust will be terminated.

3 (2) Adopts a resolution approving the proposed
4 exchange and trust termination, which finds and declares
5 that the tidelands to be exchanged and over which the
6 public trust will be terminated have been filled and
7 reclaimed, are cut off from access to the waters of San
8 Francisco Bay, constitute a relatively small portion of the
9 tide and submerged lands granted to the city, and are no
10 longer needed or required for the promotion of the public
11 trust; and, further, that no substantial interference with
12 the public trust uses and purposes will ensue by virtue of
13 the exchange, and trust termination. Upon adoption of
14 the resolution, or at the time that may otherwise be
15 specified in the resolution, the tidelands to be exchanged
16 and with respect to which the public trust is to be
17 terminated shall thereupon be free from the public trust.

18 SEC. 8. Any agreement, exchange, or adjustment
19 pursuant to this act shall be conclusively presumed to be
20 valid unless held to be invalid in an appropriate
21 proceeding in a court of competent jurisdiction to
22 determine the validity of the agreement, exchange, or
23 adjustment, and commenced within 60 days after the
24 recording of the agreement, exchange, or adjustment.

25 SEC. 9. An action may be brought under Chapter 4
26 (commencing with Section 760.010) of Title 10 of Part 2
27 of the Code of Civil Procedure by the parties to any
28 agreement entered into pursuant to this act to confirm
29 the validity of the agreement. Notwithstanding any
30 provision of Section 764.080 of the Code of Civil
31 Procedure, the statement of decision in the action shall
32 include a recitation of the underlying facts and a
33 determination whether the agreement meets the
34 requirements of this act, Sections 3 and 4 of Article X of
35 the California Constitution, and any other law applicable
36 to the validity of the agreement.

37 SEC. 10. Agreements, exchanges, or adjustments
38 made by the city, *redevelopment agency, or surplus*
39 *property authority* pursuant to this act are hereby found
40 to be of statewide significance and importance and,



1 therefore, any ordinance, charter provision, or other
2 provision of local law inconsistent with this act does not
3 apply to the agreements, exchanges, or adjustments.

4 SEC. 11. This act is an urgency statute necessary for
5 the immediate preservation of the public peace, health,
6 or safety within the meaning of Article IV of the
7 California Constitution and shall go into immediate
8 effect. The facts constituting the necessity are:

9 The Richmond Harbor Development Area is planned
10 for development by the City of Richmond and will
11 include important areas of private development and
12 significant public access elements. Those public access
13 elements will tie into a larger area of continuous public
14 access along the Richmond waterfront. The
15 redevelopment of the Richmond Harbor Development
16 Area and larger development projects will maximize
17 public access to a broad area of the Richmond waterfront,
18 in furtherance of the public trust and granted lands trust
19 under which the remaining granted tide and submerged
20 lands are held. In order to make lands available for public
21 access, and to terminate legal uncertainties to title to
22 inland areas for development as soon as possible, it is
23 necessary that this act take effect immediately.

