

AMENDED IN SENATE MAY 6, 2009
AMENDED IN SENATE APRIL 23, 2009

SENATE BILL

No. 792

Introduced by Senator Leno

February 27, 2009

An act to repeal Section 5006.8 of the Public Resources Code, to repeal Section 3 of Chapter 2 of the Statutes of 1958 of the First Extraordinary Session, to repeal Chapter 1046 of the Statutes of 1998, to repeal Chapter 464 of the Statutes of 2002, and to repeal Chapter 435 of the Statutes of 2003, relating to tidelands and submerged lands.

LEGISLATIVE COUNSEL'S DIGEST

SB 792, as amended, Leno. Tidelands and submerged lands: City and County of San Francisco: Candlestick Point and Hunters Point Naval Shipyard.

(1) Existing law grants to the City and County of San Francisco the right, title, and interest of the State of California in and to certain tidelands and submerged lands in trust for certain purposes. The State Lands Commission has jurisdiction over tidelands and submerged lands of the state.

The Hunters Point Shipyard Conversion Act of 2002 granted to, and vested in, the San Francisco Redevelopment Agency, all of the state's right, title, and interest in the Hunters Point trust lands, and, upon conveyance by the federal government to the agency, in appurtenances located on Hunters Point submerged lands, subject to the public trust and the terms and conditions of the act. The Hunters Point Shipyard Public Trust Exchange Act approved an exchange of public trust lands within the Hunters Point Shipyard, whereby certain trust lands that meet specified criteria and are not useful for public trust purposes are freed

from the public trust and may be conveyed into private ownership, and certain other lands that are not public trust lands and that are useful for public trust purposes are made subject to the public trust. Existing law authorizes the Director of Parks and Recreation to enter into agreements concerning the development of a project in the City and County of San Francisco and partly within the Candlestick Point State Recreation Area.

This bill would repeal the Hunters Point Conversion Act of 2002 and the Hunters Point Shipyard Public Trust Exchange Act. The bill would also repeal the provision authorizing the Director of Parks and Recreation to enter into agreements concerning that project in the City and County of San Francisco.

This bill instead would grant to, and vest in, the San Francisco Redevelopment Agency, all of the state's right, title, and interest in Candlestick Point and the former Hunters Point Naval Shipyard trust lands, as revised, and, upon conveyance by the federal government to the agency, in appurtenances located on Hunters Point submerged lands, subject to the public trust, and the terms and conditions of this bill.

This bill would also approve an exchange of public trust lands within the lands conveyed, whereby certain trust lands or interests in lands that meet specified criteria and are not now useful for public trust purposes will be freed from the public trust and may be conveyed into private ownership, and certain other lands or interests in lands that are not now public trust lands and that are useful for public trust purposes will be made subject to the public trust.

The bill would require the agency to deposit all moneys collected by the agency arising out of the use or operation of any of the trust lands into a special fund maintained by the agency. The bill would require the agency to prepare an annual statement of financial conditions and operations and to submit the statement to the State Lands Commission each year on or before October 1, thereby imposing a state-mandated local program.

The bill would authorize the Director of Parks and Recreation to enter in an agreement to transfer to the agency or the City and County of San Francisco an interest in state property held by the department within the Candlestick Point State Recreation Area upon the director making certain findings.

(2) The bill would state findings and declarations of the Legislature regarding the need for special legislation.

(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. The following definitions apply for purposes of
2 this act:

3 (a) “1958 Act” means Chapter 2 of the Statutes of 1958 of the
4 First Extraordinary Session.

5 (b) “Agency” means the San Francisco Redevelopment Agency,
6 or any successor redevelopment agency with jurisdiction over the
7 project area.

8 (c) “Applicable statutory trust” means either of the following:

9 (1) Where the agency is the trustee, the terms and conditions of
10 the state’s trust grant to the agency under this act.

11 (2) Where the city is the trustee, the Burton Act trust.

12 (d) “Burton Act” means Chapter 1333 of the Statutes of 1968,
13 as amended.

14 (e) “Burton Act lands” means all those lands within the project
15 area owned in fee by the city and held subject to the Burton Act.

16 (f) “Burton Act trust” means the statutory trust imposed by the
17 Burton Act, by which the state conveyed to the city, in trust and
18 subject to certain terms, conditions, and reservations, the state’s
19 interest in certain tidelands, including filled lands, and lands
20 dedicated or acquired by the city as assets of the trust.

21 (g) “Candlestick Point” means all that real property situated in
22 the City and County of San Francisco commonly known as
23 Candlestick Point.

24 (h) “City” means the City and County of San Francisco, a charter
25 city and county, and includes the City and County of San Francisco
26 acting by and through its Port Commission.

27 (i) “City reversionary interest” means the reversionary interest
28 retained by the city in the lands transferred to the state pursuant
29 to the quitclaim deed from the city to the State of California,
30 recorded January 24, 1984, at Reel D633, Image 1952 in the office

1 of the San Francisco City and County Recorder, under which the
2 transferred lands would revert to the city upon certain conditions
3 specified in the deed.

4 (j) “Commission” means the State Lands Commission.

5 (k) “Community Redevelopment Law” means Part 1
6 (commencing with Section 33000) of Division 24 of the Health
7 and Safety Code.

8 (l) “Department” means the Department of Parks and Recreation.

9 (m) “Director” means the Director of Parks and Recreation.

10 (n) “Hillside open space” means that area of land so designated
11 as depicted in the diagram in Section 25 of this act.

12 (o) “Hunters Point submerged lands” means all that real property
13 situated in the City and County of San Francisco that is presently
14 submerged and is outside the boundaries of the shipyard, but within
15 the boundaries of the Hunters Point Shipyard Redevelopment Area
16 as shown in the redevelopment plan.

17 (p) “Project” means the integrated development of a combination
18 of uses on Candlestick Point and the shipyard, including, but not
19 limited to, residential, commercial, and recreational uses, in
20 accordance with the redevelopment plan.

21 (q) “Project area” means the shipyard and Candlestick Point.

22 (r) “Proposition G” means Proposition G, also known as the
23 “Mixed Use Development Project for Candlestick Point and
24 Hunters Point Shipyard,” approved by the voters of the city in June
25 2008.

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

28 (t) “Redevelopment plan” means the Hunters Point Shipyard
29 Redevelopment Plan, and those portions of the Bayview-Hunters
30 Point Redevelopment Plan pertaining to the redevelopment of
31 Candlestick Point, adopted by the agency pursuant to Chapter 4.5
32 (commencing with Section 33492) of the Community
33 Redevelopment Law, as those plans may be amended from time
34 to time.

35 (u) “Shipyard” means all that real property situated in the City
36 and County of San Francisco commonly referred to as the Hunters
37 Point Naval Shipyard.

38 (v) “State” means the State of California, or any political
39 subdivision or instrumentality of the state.

1 (w) “State property” means the property or interests in property
2 owned by the state located within the project area, and includes
3 both proprietary land and sovereign land.

4 (x) “State recreation area” means the Candlestick Point State
5 Recreation Area.

6 (y) “Tidelands” means the lands lying below the elevation of
7 ordinary high water, whether filled or unfilled, and includes
8 submerged lands, unless specified otherwise.

9 (z) “Trustee” means the owner and trust administrator of trust
10 lands granted pursuant to this act or the Burton Act, and is either
11 the agency, with respect to lands owned by the agency, or the city,
12 with respect to lands owned by the city.

13 (aa) “Trust lands” means all lands, including tide and submerged
14 lands, within the project area that are presently, or upon conveyance
15 out of federal ownership will be, subject to the public trust.
16 Following a trust exchange, trust lands shall include all lands within
17 the project area that have been impressed with the trust pursuant
18 to the exchange, and shall not include any lands that have been
19 removed from the trust pursuant to the exchange.

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

21 (a) The purpose of this act is to facilitate the productive reuse
22 of the lands within the areas of San Francisco known as Candlestick
23 Point and the former Hunters Point Naval Shipyard in a manner
24 that furthers the purposes of the public trust and the Community
25 Redevelopment Law. To effectuate this purpose, this act grants
26 the state’s sovereign interest in the lands comprising the shipyard
27 to the agency upon the transfer of those lands out of federal
28 ownership, and approves and authorizes the commission, provided
29 that it makes the necessary findings supporting the exchange, to
30 carry out an exchange of lands that will place or confirm the public
31 trust on lands within the project area with substantial value for the
32 public trust, and terminate the public trust in project area lands
33 that are no longer useful for trust purposes. This act also authorizes
34 the department to enter into an agreement to transfer certain lands
35 within the Candlestick Point State Recreation Area to the agency
36 or the city, provided that the agreement provides an overall benefit
37 to the state recreation area and meets certain other conditions set
38 forth in this act.

39 (b) The project area, including both the shipyard and Candlestick
40 Point, encompasses lands that were historically tidelands subject

1 to the public trust, as well as historic uplands that were not subject
2 to the trust. Beginning in 1861, certain of the area's tidelands were
3 conveyed into private ownership by the state pursuant to various
4 state statutes. Portions of those tidelands were subsequently filled
5 and reclaimed. The trust status of the reclaimed tidelands is
6 uncertain. Due to differences in the various statutes authorizing
7 the conveyance of the tidelands into private ownership, as well as
8 other historical circumstances, some of the reclaimed tidelands,
9 including lands located well inland from the current shoreline,
10 have remained subject to the public trust, while other reclaimed
11 tidelands, including most of the lands adjacent to the shoreline,
12 may have been freed from the trust. In addition, a portion of the
13 lands that are subject to the trust consist of "paper streets" that
14 were mapped but never built, forming a grid pattern that is not
15 consistent with the existing or planned street system for the lands,
16 and most of these lands are no longer useful for trust purposes.

17 (c) In 1939, the United States began acquiring lands for purposes
18 of constructing and operating what came to be known as the
19 Hunters Point Naval Shipyard. The shipyard was used primarily
20 as a United States Navy industrial operation for the modification,
21 maintenance, and repair of ships. The shipyard was closed in 1974,
22 resulting in adverse economic impacts on the economic base of
23 the surrounding Bayview Hunters Point neighborhood. Pursuant
24 to Section 2824(a) of the National Defense Authorization Act for
25 fiscal year 1991, as amended by Section 2834 of the National
26 Defense Authorization Act for fiscal year 1994, the United States
27 Navy is authorized to convey the shipyard, or portions of the
28 shipyard, to the city or to a local reuse authority approved by the
29 city. The agency is the approved local reuse authority for the
30 shipyard. Pursuant to a 2004 conveyance agreement with the
31 agency, the United States Navy has conveyed a portion of the
32 shipyard to the agency and has agreed to transfer the remainder to
33 the agency following hazardous materials remediation.

34 (d) The state's sovereign interest in the filled tidelands at
35 Candlestick Point consists primarily of paper streets and portions
36 of a former railroad right-of-way. In 1958, the state, through the
37 1958 Act, authorized the sale of a portion of these lands to the city
38 for the purpose of developing a sports stadium. The 1958 Act
39 terminated the public trust on the transferred lands, but required
40 that they be used only for purposes of general statewide interest.

1 Pursuant to the 1958 Act, the city acquired the lands free of the
2 trust and constructed the stadium commonly referred to as
3 Candlestick Park, which is now nearing the end of its useful life.

4 (e) In 1968, the Legislature enacted the Burton Act, which
5 granted the state's remaining interest in tidelands within the city,
6 including the state's sovereign interests in the portion of
7 Candlestick Point outside of the stadium site, to the city, subject
8 to the public trust and the Burton Act trust. In 1973, the Legislature
9 authorized the department to acquire and develop real property at
10 Candlestick Point for the state park system. The state subsequently
11 acquired private lands along the shoreline of Candlestick Point to
12 create the Candlestick Point State Recreation Area. In 1984, the
13 city conveyed back to the state those lands within the state
14 recreation area boundaries that the city had acquired under the
15 1958 Act and the Burton Act, subject to the city's reversionary
16 interest. The state recreation area was the first California state park
17 unit developed in an urban environment and is a critical component
18 of the state park system. At present, however, much of the state
19 recreation area is underutilized and in need of substantial
20 restoration and improvement.

21 (f) The shipyard and Candlestick Point are in close proximity
22 to one another, separated only by Yosemite Slough and South
23 Basin. Together, they comprise approximately 760 acres and make
24 up the largest area of underused land in the city. The shipyard,
25 once a source of economic opportunity for the surrounding
26 Bayview Hunters Point community, has stood dilapidated and
27 abandoned for over 30 years and now stands as a barrier to public
28 health, open space, and the waterfront, and a blight on one of San
29 Francisco's poorest communities. The revitalization of Candlestick
30 Point has been contemplated for over 10 years to create much
31 needed economic and public benefits, affordable housing for
32 Bayview Hunters Point residents, and other tangible benefits to
33 the Bayview Hunters Point community. The stadium at Candlestick
34 Point is nearing the end of its useful life and is in need of
35 replacement, the nearby public housing development at Alice
36 Griffith requires a complete rebuilding, and the restoration and
37 improvement of the adjoining state recreation area has been a
38 long-time goal of the state, the city, and the Bayview Hunters Point
39 community.

1 (g) Until 2007, efforts to redevelop the shipyard and Candlestick
2 Point proceeded separately from one another. In 1997, the agency
3 and the city adopted the Hunters Point Shipyard Redevelopment
4 Plan to provide for the economic revitalization of the shipyard
5 upon its transfer out of federal ownership. In anticipation of the
6 transfer of the shipyard to the agency, the Hunters Point Shipyard
7 Conversion Act of 2002 (Chapter 464 of the Statutes of 2002), and
8 the Hunters Point Shipyard Public Trust Exchange Act (Chapter
9 435 of the Statutes of 2003), which together granted in trust to the
10 agency all of the state's sovereign interest in certain lands within
11 and adjacent to the shipyard and authorized a shipyard-wide public
12 trust exchange, subject to certain terms and conditions.

13 (h) Chapter 1046 of the Statutes of 1998, which repealed and
14 added Section 5006.8 of the Public Resources Code, was enacted
15 for the purpose of facilitating the redevelopment of Candlestick
16 Point in accordance with Propositions D and F, which were
17 approved by voters of the city on June 3, 1997. Those measures
18 authorized development of a stadium, retail and entertainment
19 center, and associated support uses on the site. In 2006, the city
20 and the agency adopted the Bayview Hunters Point Redevelopment
21 Plan, which included provision for a stadium project consistent
22 with Propositions D and F. Subsequently, the primary tenants of
23 the stadium, the San Francisco Forty Niners, announced their
24 intention to build a new stadium in a location other than
25 Candlestick Point.

26 (i) In 2007, the city and the agency undertook a new, integrated
27 planning effort for the shipyard and Candlestick Point, which
28 resulted in the adoption of a conceptual framework for
29 development. The conceptual framework calls for a mixed use
30 project on the project area that will provide, among other things,
31 much needed parks and open space, including a major renovation
32 of the state recreation area to enhance access by residents and
33 visitors to the waterfront; new business and employment
34 opportunities; new housing opportunities affordable for residents
35 of the neighboring Bayview Hunters Point community; a site for
36 a new sports stadium on the shipyard, with alternative uses if the
37 San Francisco Forty Niners elect to build a new stadium elsewhere;
38 and other economic and public benefits for the community and the
39 city as a whole and the statewide public.

(j) In June 2008, the voters of the city approved Proposition G, the “Mixed Use Development Project for Candlestick Point and Hunters Point Shipyard.” Proposition G repealed Propositions D and F and promulgated city policy encouraging the timely development of the project area with a mixed-use project including: over 300 acres of public park and open space; between 8,500 and 10,000 homes; about 700,000 square feet of retail space; about 2,150,000 square feet of green office, science and technology, research and development, and industrial space; a possible arena or other public performance site; a site in the shipyard for a new stadium for the San Francisco Forty Niners; and additional green office, science and technology, research and development, and industrial space, or additional housing, if a new stadium is not built. Proposition G specifically contemplated a mix of stacked flats, attached town homes and, in appropriately selected locations, low-rise, mid-rise, and high-rise towers, to help ensure the economic feasibility of the development and provide a varied urban design. Proposition G also made it city policy that the project be consistent with the following objectives: producing tangible community benefits for residents of the Bayview Hunters Point neighborhood and the city; reconnecting the shipyard and Candlestick Point with the Bayview Hunters Point neighborhood and protecting the Bayview Hunters Point neighborhood character for existing residents; producing substantial new housing, both affordable and market-rate, and encouraging the rebuilding of the Alice Griffith Housing Development; incorporating environmental sustainability; encouraging the San Francisco Forty Niners to remain in San Francisco; and requiring the project to be financially sound, with or without a new stadium.

(k) This legislation is necessary for the successful redevelopment of the project area and to realize the resulting public benefits, including, but not limited to, the elimination of blight, the provision of affordable housing, the creation of new public open space, and increased public access to the waterfront. This legislation is also needed to improve the configuration of the public trust lands in furtherance of trust purposes.

(l) The existing configuration of trust and nontrust lands within the project area is such that the purposes of the public trust cannot be fully realized. A substantial portion of the reclaimed trust lands are interior lands that have been cut off from access to navigable

1 waters, or are paper streets laid out in a grid pattern that is not
2 useful to the trust. Most of these lands are no longer needed or
3 required for the promotion of the public trust. Other lands within
4 the project area adjacent to the waterfront or otherwise of high
5 value to the public trust are currently not subject to the public trust.
6 Absent a trust exchange, substantial portions of the lands within
7 the shipyard that are located along the waterfront or are otherwise
8 of high value to the public trust would be free of the public trust,
9 would not be required to be put to uses consistent with the public
10 trust, and could be cut off from public access. In addition, certain
11 interior lands not useful for trust purposes would be restricted and
12 could not be used for residential or other nontrust uses essential
13 to the redevelopment of the project area.

14 (m) A trust exchange resulting in the configuration of trust lands
15 substantially similar to that depicted on the diagram in Section 25
16 of this act maximizes the overall benefits to the trust, without
17 interfering with trust uses or purposes. Following the exchange,
18 the entire waterfront within the project area, as well as certain
19 interior lands that have high trust values, will be subject to the
20 public trust. The lands that will be removed from the trust pursuant
21 to the exchange have been cut off from navigable waters, are no
22 longer needed or required for the promotion of the public trust,
23 and constitute a relatively small portion of the granted lands within
24 the city. This act requires the commission to ensure that the lands
25 added to the trust pursuant to the exchange have a monetary value
26 equal to or greater than the monetary value of the lands taken out
27 of the trust.

28 (n) Several historic buildings in the shipyard have been
29 identified by the State Historic Preservation Officer as contributors
30 to the Hunters Point Commercial Drydock Historic District. These
31 contributor buildings convey a sense of the shipyard's early
32 maritime history, enhance the open-space experience along the
33 waterfront, and should be preserved and restored. Uses of the
34 contributor buildings that support their preservation and restoration,
35 but which are not otherwise consistent with the trust, may be
36 authorized under certain conditions set forth in this act.

37 (o) The hillside open space provides substantial value to the
38 trust as an open space and recreational resource affording
39 exceptional views of San Francisco Bay and the waterfront. To
40 protect the trust value of the hillside open-space area, it is important

1 that significant view corridors to the waterfront be protected and
2 adequate public access be provided in the manner set forth in this
3 act.

4 (p) The state recreation area is presently in need of substantial
5 improvement, restoration, and reconfiguration. A substantial
6 portion of the park currently serves as a parking area for stadium
7 events. In other areas, the park does not contain enough land
8 adjacent to the shoreline to provide the desired level of public
9 access. The park lacks needed improvements, and many of the
10 improvements that do exist are in a state of disrepair. Proposition
11 G calls for improving and restoring the state recreation area,
12 including enhancing access to the waterfront for public use,
13 providing views of San Francisco Bay, and extending the Bay Trail
14 system through the park. This act approves a reconfiguration of
15 the state recreation area and to that end authorizes the department
16 to enter into an agreement for the transfer of state recreation area
17 lands to the agency or the city in exchange for other lands, park
18 improvements, or other consideration, provided the agreement will
19 result in an overall benefit to the park and meets the other
20 requirements of this act regarding the transfer of state recreation
21 area lands.

22 (q) This legislation advances the statewide purposes of the
23 Community Redevelopment Law and the public trust, and is in
24 the best interests of the people of this state.

25 SEC. 3. Section 5006.8 of the Public Resources Code is
26 repealed.

27 SEC. 4. Chapter 464 of the Statutes of 2002, The Hunters Point
28 Shipyard Conversion Act of 2002, as amended by Chapter 435 of
29 the Statutes of 2003, is repealed.

30 SEC. 5. Chapter 435 of the Statutes of 2003, The Hunters Point
31 Shipyard Public Trust Exchange Act, is repealed.

32 SEC. 6. (a) All of the state's right, title, and interest, acquired
33 by virtue of its sovereignty, in any trust lands in which the agency
34 holds or acquires fee title, is hereby granted to and vested in the
35 agency, subject to the public trust and the terms and conditions of
36 this act.

37 (b) Upon conveyance by the federal government to the agency
38 of any piers or other appurtenances located in part on Hunters
39 Point submerged lands, the grant of the state's right, title, and
40 interest in the Hunters Point submerged lands to the city pursuant

1 to the Burton Act shall be revoked, and all of the state's right, title,
2 and interest in those lands shall be granted to and vested in the
3 agency, subject to the public trust and the terms and conditions of
4 this act.

5 (c) The agency shall hold the trust lands in trust for the benefit
6 of all the people of the state for purposes of commerce, navigation,
7 and fisheries, and for other public trust purposes, subject to the
8 terms and conditions of this act. Any trust lands held by the agency
9 pursuant to this act shall not be subject to the Burton Act trust.

10 SEC. 7. Notwithstanding Section 6359 of the Public Resources
11 Code or any other provision of law, the grant of trust lands to the
12 agency pursuant to this act shall be deemed effective as follows:

13 (a) On January 1, 2010, with respect to trust lands owned by
14 the agency on that date.

15 (b) With respect to trust lands acquired by the agency after
16 January 1, 2010, upon the agency's acquisition of those lands.

17 (c) With respect to the Hunters Point submerged lands, upon
18 conveyance by the federal government to the agency of any piers
19 or other appurtenances located in part on the Hunters Point
20 submerged lands.

21 SEC. 8. (a) The agency may use, conduct, operate, maintain,
22 manage, administer, regulate, improve, lease, and control
23 (collectively referred to as "use") the trust lands and do all things
24 necessary in connection with that authority that conform with the
25 terms of this act and the public trust. Except as provided in this
26 act, the agency shall use the trust lands only in a manner that is
27 consistent with, necessary and convenient for, or incidental or
28 ancillary to, the purposes of the public trust.

29 (b) In the management, conduct, operation, and control of the
30 trust lands, or any improvements, betterments, or structures on the
31 trust lands, the agency shall make no discrimination in rates, tolls,
32 or charges for a use or service in connection with that management.

33 SEC. 9. The agency shall not grant, convey, give, or alienate
34 the trust lands, or any part of the lands, to an individual, firm,
35 corporation, or governmental agency (not including the
36 commission) for any purpose, except as provided in this act or as
37 otherwise provided by statute.

38 SEC. 10. There is reserved in the people of the state the right
39 to hunt and fish in and over the waters on the trust lands, together

1 with the right of convenient access to the waters over the trust
2 lands for those purposes.

3 SEC. 11. The state shall reserve from the grant made in Section
4 6 of this act, and from any other conveyance pursuant to this act
5 of the state's interest, or any portion of the state's interest, in any
6 lands, all minerals and all mineral rights in the lands of every kind
7 and character now known to exist or hereafter discovered,
8 including, but not limited to, oil and gas and rights, together with
9 the sole, exclusive, and perpetual right to explore for, remove, and
10 dispose of those minerals by any means or methods suitable to the
11 state or to its successors and assignees, except that, notwithstanding
12 the Burton Act or Section 6401 of the Public Resources Code, this
13 reservation shall not include the right of the state or its successors
14 or assignees in connection with any mineral exploration, removal,
15 or disposal activity, to do either of the following:

16 (a) Enter upon, use, or damage the surface of the lands or
17 interfere with the use of the surface by a grantee or by the grantee's
18 successors or assignees. However, a lease, franchise, permit, or
19 license of the property shall contain a provision specifying at least
20 one point from which, and the manner in which, the right of ingress
21 or egress to the subsurface deposits may be exercised, which point
22 or points may be outside the area of the leasehold, franchise,
23 permit, or license, as long as the point or points are adequate to
24 permit the rights reserved to the state to be exercised.

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

29 SEC. 12. The state has the right to use, without charge, any
30 transportation, land or storage improvements, wharves, docks,
31 piers, slips, quays, or other improvements constructed upon the
32 trust lands, for a vessel or other watercraft, aircraft, or railroad
33 owned or operated by the state.

34 SEC. 13. (a) The state reserves the right to amend, modify, or
35 revoke any and all rights in the trust lands granted to the agency
36 under this act.

37 (b) No amendment or revocation, in whole or in part, of the
38 granted rights in the trust lands shall impair or affect the rights or
39 obligations of third parties, including debt, security, or bond
40 holders, lessees, lenders for value, and holders of contracts

1 conferring the right to the use or occupation of, or the right to
2 conduct operations upon or within, the trust lands, arising from
3 leases, contracts, or other instruments lawfully entered into prior
4 to the effective date of the amendment or revocation. For purposes
5 of this section, the term “bonds” includes, without limitation, tax
6 increment bonds, revenue bonds, certificates of participation, and
7 any other bonds or forms of indebtedness secured by or payable
8 from, in whole or in part, revenues derived from trust lands.

9 (c) If a lease, contract, or other instrument described in
10 subdivision (b) is in effect on the effective date of an amendment
11 or revocation, the state, at its option exercised by and through the
12 commission, may succeed to the agency’s interest in the lease,
13 contract, or instrument. Otherwise, the agency’s interest in the
14 instrument, property, and revenue shall continue during the term
15 or other period during which the instrument shall remain in effect.
16 An action taken by the state shall not cause the agency to breach
17 or default under a lease, contract, or instrument in effect on the
18 effective date of an amendment or a revocation. All bonds or
19 securities issued by the agency and payable out of revenues from
20 the trust lands shall continue to be so payable, directly or indirectly,
21 and secured in all respects as provided in the proceedings for their
22 issuance, and the revenues of the trust lands shall be pledged and
23 applied to the payment of the bonds or securities in all respects as
24 though no amendment or revocation had taken place.

25 SEC. 14. The agency may grant franchises, permits, privileges,
26 licenses, easements, or leasehold interests (leases) in connection
27 with the trust lands, or any part of the trust lands, each for a term
28 not exceeding 66 years. A lease of the trust lands shall be solely
29 for uses that are consistent with, necessary and convenient for, or
30 incidental or ancillary to, the purposes of the public trust, except
31 that a lease may be entered into for other uses if the agency has
32 made all of the following determinations:

33 (a) There is no immediate trust-related need for the property
34 proposed to be leased.

35 (b) The proposed lease is of a duration of no more than five
36 years and can be terminated in favor of trust uses as trust needs
37 arise.

38 (c) The proposed lease prohibits the construction of new
39 structures or improvements on the subject property that, as a

1 practical matter, could prevent or inhibit the property from being
2 converted to a permissible trust use if necessary.

3 (d) The proposed use of the leased property would not interfere
4 with commerce, navigation, fisheries, or any other existing trust
5 use or purpose.

6 SEC. 15. (a) Notwithstanding any other provision of this act
7 or the Burton Act, the buildings, or any portion of a building,
8 identified by the State Historic Preservation Officer as contributors
9 to the Hunters Point Commercial Drydock Historic District,
10 commonly known as the Gatehouse (Building 204), Pumphouse
11 2 (Building 205), Pumphouse 3 (Building 140), and the Tool and
12 Paint Building (Building 207), may be used or leased for purposes
13 not otherwise consistent with the public trust, provided the trustee
14 makes a finding that there are no trust uses available that would
15 allow for the restoration and preservation of the space. A lease
16 renewal, extension, or granting of a new lease for a nontrust
17 purpose shall require a new finding that no trust uses are then
18 available that would allow for the restoration and preservation of
19 the building, or a part of it.

20 (b) If a building described in subdivision (a) is used for a
21 nontrust purpose, and is remodeled, renovated, or used in a manner
22 that is inconsistent with the Secretary of the Interior's Standards
23 for the Treatment of Historic Properties with Guidelines for
24 Preserving, Rehabilitating, Restoring and Reconstructing Historic
25 Buildings, the building shall be put to a public trust use from the
26 commencement of the inconsistent remodel, renovation, or use,
27 unless the continued nontrust use is authorized to continue under
28 Section 14 of this act, if the agency is the trustee, or under the
29 Burton Act, if the city is the trustee.

30 (c) If a building described in subdivision (a) is demolished,
31 subsequent use of the land and a replacement structure shall be
32 consistent with the public trust and the applicable statutory trust.

33 SEC. 16. (a) The agency shall deposit all moneys collected
34 by the agency arising out of the use or operation of any of the trust
35 lands, including all revenues derived from leases or other rights
36 to use or occupy the lands, into a special fund maintained by the
37 agency. The agency shall use the money in or belonging to the
38 fund only for uses and purposes consistent with the public trust
39 and the requirements of this act.

(b) The agency shall prepare an annual statement of financial conditions and operations and submit it to the commission each year on or before October 1. The statement shall include a statement of all revenues and expenditures related to trust lands and trust assets, including obligations incurred, but not yet paid.

(c) The requirements of this section implement and do not supersede the requirements of Section 6306 of the Public Resources Code.

SEC. 17. (a) The agency may exchange portions of the trust lands with a state agency, political subdivision, person, entity, or corporation, or the United States or a political subdivision of the United States, for other lands, if the agency determines, and the commission adopts a resolution finding and declaring, all of the following:

(1) The portions of the trust lands or interests in lands to be exchanged out of the trust have been filled and reclaimed, are cut off from access to the waters of San Francisco Bay and are no longer in fact tidelands or submerged lands or navigable waterways, are relatively useless for trust purposes, and constitute a relatively small portion of the granted lands within the city.

(2) The lands or interests in lands to be acquired by the agency have a monetary value equal to or greater than the value of the lands for which they are to be exchanged and are useful for the particular trust purposes authorized by this act.

(3) No substantial interference with trust uses and purposes, including public rights of navigation and fishing, will ensue by virtue of the exchange.

(4) The lands or interests in lands to be acquired by the agency in the exchange will provide a significant benefit to the public trust.

(5) The exchange is otherwise in the best interest of the state.

(b) Upon adoption of the resolution by the commission, the lands conveyed by the agency shall be free from the public trust, and the lands received by the agency in exchange shall be held subject to the public trust and to the terms of this act.

(c) The exchange authority granted by this section shall be in addition to, and shall not operate as a limitation on, the exchange authority granted by Sections 20 to 25, inclusive, of this act.

SEC. 18. Upon written agreement between the agency and the city, acting by and through its Port Commission, the agency may

1 transfer to the city some or all of the trust lands in which the agency
2 holds fee title, provided that the commission has approved the
3 transfer, or the transfer is solely for purposes of street, utility, or
4 public right-of-way dedication and is approved by the executive
5 officer of the commission. All of the right, title, and interest granted
6 to the agency under this act in any lands transferred to the city
7 under this section shall, upon transfer, be granted to and vest in
8 the city. The city shall hold the transferred lands subject to the
9 public trust and shall assume authority as trustee over those lands.
10 Lands transferred to the city pursuant to this section shall be subject
11 to the Burton Act trust and shall cease to be subject to the terms
12 and conditions of this act, except that Section 15 of this act shall
13 remain applicable to those lands. Nothing in this section shall
14 preclude the city from including trust lands held by the city as part
15 of an exchange authorized by this act.

16 SEC. 19. Notwithstanding the Burton Act or any other
17 provision of law, upon approval by the commission, the city may
18 transfer to the agency some or all of the Burton Act lands. All of
19 the right, title, and interest granted to the city under the Burton
20 Act in any lands transferred to the agency under this section shall,
21 upon transfer, be granted to and vest in the agency. The agency
22 shall hold the transferred lands subject to the public trust and the
23 requirements of this act, and shall assume authority as trust
24 administrator over those lands. Lands transferred to the agency
25 under this section shall cease to be subject to the Burton Act trust.

26 SEC. 20. The Legislature hereby approves an exchange of
27 public trust lands within the project area, whereby certain trust
28 lands that meet the criteria set forth in this act and therefore are
29 not now useful for public trust purposes will be freed from the
30 public trust and of the associated restrictions on use and alienation,
31 and certain other lands that are not now public trust lands and that
32 are useful for public trust purposes will be made subject to the
33 public trust, provided that the commission determines that the
34 exchange furthers the public trust and approves the exchange and
35 that all of the following conditions are met:

36 (a) The exchange results in a configuration of trust lands
37 substantially similar to that shown on the diagram in Section 25
38 of this act.

1 (b) The lands to be subject to the public trust are configured so
2 as to be accessible from the streets as finally configured in the
3 project area.

4 (c) The exchange otherwise complies with the requirements of
5 this act.

6 (d) The exchange is consistent with and furthers the purposes
7 of the public trust and this act.

8 SEC. 21. All lands exchanged into the trust under this act shall
9 be held by the trustee subject to the public trust and the applicable
10 statutory trust, and all lands exchanged out of the trust under this
11 section shall be free of the public trust and the applicable statutory
12 trust.

13 SEC. 22. The precise boundaries of the lands to be taken out
14 of the trust and the lands to be put into the trust pursuant to the
15 exchange shall be determined by the trustee or trustees with
16 authority over the lands to be exchanged, subject to the approval
17 of the commission. The commission is authorized to settle by
18 agreement with the trustees any disputes as to the location of the
19 mean high tide line in its last natural state, the boundaries of
20 tidelands conveyed into private ownership pursuant to various
21 statutes, and any other boundary lines which the commission deems
22 necessary to effectuate the exchange.

23 SEC. 23. (a) The commission is authorized to approve an
24 exchange of public trust lands within the project area that meets
25 the requirements of this act. Pursuant to this authority, the
26 commission shall establish appropriate procedures for effectuating
27 the exchange. The procedures shall include provisions for ensuring
28 that lands or interests in lands are not exchanged into the trust until
29 either of the following has occurred:

30 (1) All remedial action necessary to protect human health and
31 the environment with respect to the hazardous substances on the
32 land has been completed as determined by the United States
33 Environmental Protection Agency, the California Department of
34 Toxics Substances Control, and the regional water quality control
35 board, pursuant to the Federal Facilities Agreement for the shipyard
36 dated January 22, 1992, as amended, and the United States has
37 provided a warranty in accordance with Section 9620(h)(3)(A) of
38 Title 42 of the United States Code.

39 (2) The United States has obtained a warranty deferral, approved
40 by the Governor in accordance with Section 9620(h)(3)(C) of Title

1 42 of the United States Code, involving land for which the
2 commission has determined to execute a certificate of acceptance
3 of title, and the commission finds that sufficient liability measures
4 and implementation measures will be in place upon the completion
5 of the exchange.

6 (b) The commission may not approve the exchange of any trust
7 lands unless it finds all of the following:

8 (1) The portions of the trust lands or interests in lands to be
9 exchanged have been filled and reclaimed, are cut off from access
10 to the waters of San Francisco Bay and are no longer in fact
11 tidelands or submerged lands or navigable waterways, are relatively
12 useless for public trust purposes, and constitute a relatively small
13 portion of the granted lands within the city.

14 (2) The lands or interests in lands to be impressed with the public
15 trust have a monetary value equal to or greater than the monetary
16 value of the lands or interests in lands to be exchanged out of the
17 trust. In the event that the monetary value of the lands or interests
18 in lands to be exchanged out of the trust is greater than the
19 monetary value of the lands or interests in lands to be exchanged
20 into the trust, the commission may consider a deposit of funds into
21 the Land Bank Fund established pursuant to Section 8610 of the
22 Public Resources Code to be held solely for acquisition of property,
23 in an amount equal to the difference in value.

24 (3) No substantial interference with trust uses and purposes,
25 including public rights of navigation and fishing, will ensue by
26 virtue of the exchange.

27 (4) The lands or interests in lands impressed with the public
28 trust will provide a significant benefit to the public trust and are
29 useful for the particular trust purposes authorized by this act.

30 (5) The configuration of trust lands within the project area upon
31 completion of the exchange is substantially similar to the
32 configuration shown on the diagram in Section 25 of this act,
33 includes all lands within the project area that are presently below
34 mean high tide, and consists of lands suitable to be impressed with
35 the public trust.

36 (6) The final layout of streets in the project area will provide
37 access to the public trust lands and be consistent with the beneficial
38 use of the public trust lands.

39 (7) Streets and other transportation facilities located on public
40 trust lands shall be designed to be compatible with the public trust

1 and to serve primarily public trust purposes of access to shoreline
2 improvements and shoreline circulation rather than serving nontrust
3 purposes.

4 (8) Any surveys or legal descriptions required for the parcels
5 in conjunction with the exchange shall be approved by the
6 commission.

7 (9) Each trustee who owns or will own fee title in any of the
8 lands to be exchanged has approved the exchange.

9 (10) The exchange otherwise complies with the requirements
10 of this act.

11 (11) The exchange is consistent with and furthers the purpose
12 of the public land trust and this act.

13 (12) The exchange is otherwise in the best interest of the
14 statewide public.

15 (c) The commission may impose additional conditions on the
16 exchange authorized by this act if the commission determines that
17 these conditions are necessary to protect the public trust. At a
18 minimum, the commission shall ensure all of the following:

19 (1) The streets and other transportation facilities located on trust
20 lands are designed to be compatible with the public trust.

21 (2) The trust values of the hillside open space are preserved. To
22 this end, the commission shall ensure all of the following:

23 (A) The final trust configuration maintains reasonable public
24 pedestrian and vehicular access between the hillside open space
25 and the waterfront, and in addition, between the top of the hillside
26 open space and other areas of the city.

27 (B) View corridors are maintained and protected so that visitors
28 to the hillside open space can enjoy substantial vistas of San
29 Francisco Bay.

30 (C) Direct vehicular and pedestrian access from the lower
31 portions of the shipyard to the top of the hillside open space area
32 is provided.

33 (D) No liability to owners of adjacent upslope property, for
34 subjacent support or otherwise, is created by virtue of the trustee's
35 taking title to the hillside open space.

36 (E) No moneys from the trust fund described in Section 16 of
37 this act may be used to provide direct benefit to the residential
38 development or to other uses of the nontrust portion of the hilltop
39 area adjacent to the hillside open space, or to offset or mitigate
40 impacts caused by those uses.

1 (F) Street parking on the parkway adjacent to the top of the
2 hillside open space may not be restricted for residential parking
3 and shall remain accessible to the public for regional and statewide
4 use. In addition, adequate parking areas accessible to the public
5 to support regional and statewide use of the hillside open space
6 shall be dedicated in an area adjacent to the lower portion of the
7 hillside open space. Public access to the hillside open space and
8 the availability of parking accessible to the public shall be
9 publicized with appropriate signage.

10 (d) For purposes of effectuating the exchange authorized by this
11 section, the commission is authorized to do all of the following:

12 (1) Receive and accept on behalf of the state any lands or interest
13 in lands conveyed to the state by the parties to the exchange
14 agreement, including lands that are now and that will remain
15 subject to the public trust.

16 (2) Convey by patent all of the right, title, and interest of the
17 state in lands that are to be free of the public trust upon completion
18 of an exchange of lands as authorized by this act and as approved
19 by the commission.

20 (3) Convey to the trustee or trustees by patent all of the right,
21 title, and interest of the state in lands that are to be subject to the
22 public trust and the terms of this act or the Burton Act trust upon
23 completion of an exchange of lands as authorized by this act and
24 as approved by the commission, subject to the terms, conditions,
25 and reservations as the commission may determine are necessary
26 to meet the requirements of this act.

27 (e) Nothing in this act shall be construed as conditioning or
28 otherwise limiting the authority of the state, the city, or the agency
29 from undertaking a public trust exchange or other conveyance
30 authorized by any other provision of law, including, but not limited
31 to, Section 17 of this act.

32 SEC. 24. An exchange of public trust land pursuant to Section
33 23 of this act may proceed in multiple phases, provided that with
34 respect to each phase, the commission, in addition to the findings
35 required by Section 23 of this act, finds both of the following:

36 (a) The cumulative monetary value of all of the lands or interests
37 in lands exchanged into the trust in the current and previous phases
38 is equal to or greater than the cumulative monetary value of all of
39 the lands or interests in lands exchanged out of the trust in the
40 current and previous phases. For purposes of calculating the value

1 of any lands added to or removed from the trust in an earlier phase
2 of the exchange, the commission shall utilize the value of those
3 lands as determined by the commission at the time of the
4 commission's approval of the earlier phase, adjusted for inflation
5 in a manner approved by the commission.

6 (b) The lands or interests in lands exchanged into the trust at
7 each phase are configured in a way that furthers the purposes of
8 the overall exchange, including, but not limited to, having access
9 to streets as finally configured in the project area.

10 SEC. 25. The following diagram is a part of this act:

HUNTERS POINT SHIPYARD / CANDLESTICK POINT
PUBLIC TRUST EXCHANGE



1 SEC. 26. (a) The Legislature hereby approves a reconfiguration
2 of the state recreation area in substantial conformance with the
3 diagram included as Section 27 of this act, provided that the
4 requirements of this section are met. Notwithstanding any other
5 provision of law, the director may enter into an agreement to
6 transfer to the agency or the city an interest in a state property held
7 by the department within the state recreation area, provided that
8 the director makes in writing all of the following findings:

9 (1) The department shall receive consideration equivalent to
10 the fair market value of any property interests it conveys, as
11 provided in subdivision (c).

12 (2) The agreement shall provide an overall benefit to the state
13 recreation area.

14 (3) (A) The reconfiguration of the state recreation area shall
15 substantially conform to the configuration shown on the diagram
16 included as Section 27 of this act; provided, however, that the
17 director may agree to additional modifications of the park
18 configuration if the modifications are consistent with the overall
19 financial feasibility of the project and the director determines that
20 the modifications are necessary to fulfill the state recreational
21 purposes of the state recreation area, taking into account public
22 access, circulation and parking needs, wildlife habitat values, future
23 sea level rise and the proposed responses thereto, and other relevant
24 factors.

25 (B) If, at the time an agreement authorized by this section is
26 entered into, the agency has not acquired title to any portion of the
27 lands within the shipyard that are to be added to the state recreation
28 area, the director may find that the requirements of this paragraph
29 are met with respect to those lands if the agreement obligates the
30 agency to transfer the lands to the department following the
31 agency's acquisition of the lands, and the other consideration
32 received by the department meets the requirements of paragraph
33 (1) and subdivision (c).

34 (b) The director shall modify the boundaries of the state
35 recreation area as necessary to reflect any conveyances made
36 pursuant to this section.

37 (c) The consideration for state property transferred pursuant to
38 subdivision (a) may consist of any of the following, or any
39 combination thereof:

1 (1) Monetary consideration, which shall be dedicated and used
2 for planning, improvement, maintenance, or operation of the state
3 recreation area.

4 (2) The cost of planning and constructing improvements to the
5 state recreation area that enhance its use as a public park.

6 (3) Provisions for future revenue to fund the operation and
7 maintenance for all or part of the state recreation area.

8 (4) Other nonmonetary consideration, including, but not limited
9 to, relinquishment of the city reversionary interest.

10 (5) Land within the project area to be added to the state
11 recreation area.

12 (6) The cost of any reimbursement paid to the state for its legal,
13 transactional, planning, or other costs associated with actions
14 carried out pursuant to this section.

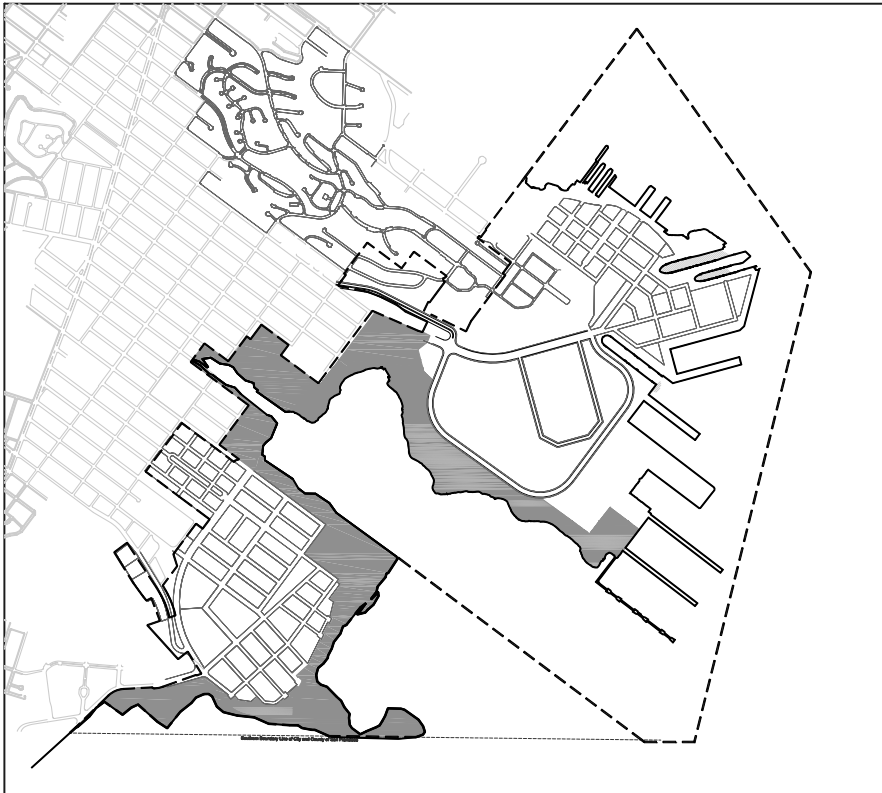
15 (d) Notwithstanding any other provision of law, the director
16 may acquire or transfer on behalf of the department real property
17 pursuant to the agreement authorized by this section, provided that
18 the other requirements of this section are met, and the fair market
19 value of any real property acquired or transferred has been
20 determined by an appraisal prepared by the commission, the Real
21 Estate Services Division of the Department of General Services,
22 or an independent appraiser certified by the Office of Real Estate
23 Appraisers pursuant to Part 3 (commencing with Section 11300)
24 of Division 4 of the Business and Professions Code.

25 (e) The agreement authorized by this section may be combined
26 with a trust exchange agreement authorized by this act. For
27 purposes of compliance with subdivision (d), the department may
28 rely on an appraisal prepared in connection with a trust exchange
29 authorized by this act.

30 (f) The requirements of this section shall govern an agreement
31 entered into, or conveyance made pursuant to the agreement, and
32 shall supersede any other provision of law pertaining to the
33 department's authority to acquire or transfer real property, or to
34 enter into an agreement to acquire or transfer real property,
35 including, but not limited to, Article 1 (commencing with Section
36 11000) of Chapter 1 of Part 1 of Division 3 of Title 2 of the
37 Government Code, Part 11 (commencing with Section 15850) of
38 Division 3 of Title 2 of the Government Code, and Chapter 1.695
39 (commencing with Section 5096.500) of Division 5 of the Public
40 Resources Code.

1 (g) Notwithstanding anything to the contrary in Section 5002.2
2 of the Public Resources Code, the department is not required to
3 revise the general plan for the state recreation area prior to taking
4 any action pursuant to this section, including, but not limited to,
5 the approval of an agreement authorized by this section, the
6 acquisition, conveyance or transfer of interests in real property
7 pursuant to such agreement, or the modification of the state
8 recreation area boundary. Nothing in this subdivision shall be
9 construed as creating an exemption from the requirements of the
10 California Environmental Quality Act (Division 13 (commencing
11 with Section 21000) of the Public Resources Code), or as
12 exempting the development of new facilities within the state
13 recreation area from compliance with the general plan revision
14 requirements of Section 5002.2 of the Public Resources Code.
15 SEC. 27. The following diagram is a part of this act:

CANDLESTICK POINT STATE RECREATION AREA
PARK LAND EXCHANGE



-  CPSRA LANDS FOLLOWING COMPLETION OF EXCHANGE
-  PROJECT AREA
-  APPROXIMATE SHORELINE / PIERS

0 600 1200 1800



1 SEC. 28. (a) The Legislature finds and declares that the project
2 will further the important statewide interests in redevelopment,
3 the elimination of blight, the provision of affordable housing
4 opportunities, the generation of new sales tax revenues, property
5 taxes and other tax revenues to the state and state agencies, the
6 creation of thousands of new jobs, and enhanced access of the
7 public to use and enjoy the state recreation area, and that the
8 development of the project will further the statewide purposes
9 contemplated in Section 3 of the 1958 Act. The Legislature further
10 finds and declares that it is necessary and in furtherance of
11 important statewide interests for any restrictions or other
12 encumbrances on title arising from Section 3 of the 1958 Act to
13 be eliminated so as to facilitate disposition of property within the
14 project area in furtherance of development of the project.

15 (b) At the request of the city or the agency, the executive officer
16 of the commission shall, on behalf of the state, reasonably
17 cooperate with the requesting parties to cause to be prepared and
18 recorded any necessary deeds, patents, agreements, or other
19 instruments for the purpose of removing any deed restrictions or
20 other encumbrances on title arising from Section 3 of the 1958
21 Act.

22 SEC. 29. Section 3 of Chapter 2 of the Statutes of 1958 of the
23 First Extraordinary Session is repealed.

24 SEC. 30. Chapter 1046 of the Statutes of 1998 is repealed.

25 *SEC. 30.5. It is the intent of the Legislature to approve and*
26 *authorize an exchange of lands made pursuant to this act provided*
27 *that the final diagram for the exchange is included in this act.*

28 SEC. 31. An exchange or other agreement made pursuant to
29 this act is hereby found to be of statewide significance and
30 importance. Therefore, no ordinance, charter provision, or other
31 provision of local law inconsistent with this act applies to that
32 exchange or agreement.

33 SEC. 32. Nothing in this act may be construed to nullify the
34 city or the agency's obligations for increasing, improving, and
35 preserving the community's supply of low- and moderate-income
36 housing imposed by the Community Redevelopment Law,
37 including, but not limited to, the requirements of Sections 33334.2
38 and 33413 of the Health and Safety Code.

1 SEC. 33. Nothing in this act may be construed to authorize the
2 residential use or other nontrust uses on public trust land except
3 as provided in Sections 14 and 15.

4 SEC. 34. A deed, patent, agreement, or other instrument
5 executed in furtherance of this act, or an action of the city, state,
6 or agency, to approve the use, lease, or conveyance of a city, state,
7 or agency property subject to this act, or any portion thereof, or to
8 approve project agreements, grant entitlements or permits, or issue
9 bonds or other indebtedness in connection with the use and
10 development of that property, shall be conclusively presumed to
11 be valid unless held to be invalid in an appropriate proceeding in
12 a court of competent jurisdiction to determine the validity of the
13 agreement commenced within 60 days after the recording of the
14 agreement.

15 SEC. 35. (a) An action may be brought under Chapter 4
16 (commencing with Section 760.010) of Title 10 of Part 2 of the
17 Code of Civil Procedure to establish title to any lands conveyed
18 pursuant to this act, or by the parties to any agreement entered into
19 pursuant to this act to confirm the validity of the agreement.
20 Notwithstanding Section 764.080 of the Code of Civil Procedure,
21 the statement of decision in the action shall include a recitation of
22 the underlying facts and a determination as to whether the
23 conveyance or agreement meets the requirements of this act,
24 Sections 3 and 4 of Article X of the California Constitution, if
25 applicable, and any other law applicable to the validity of the
26 agreement.

27 (b) For purposes of Section 764.080 of the Code of Civil
28 Procedure and unless otherwise agreed in writing, an agreement
29 entered into pursuant to this act shall be deemed to be entered into
30 on the date it is executed by the executive officer of the
31 commission, or, if the commission is not a party, by the director,
32 who shall be the last of the parties to sign prior to the signature of
33 the Governor. The effective date of the agreement shall be deemed
34 to be the date on which it is executed by the Governor pursuant to
35 Section 6107 of the Public Resources Code.

36 (c) An action may be brought under Chapter 9 (commencing
37 with Section 860) of Title 10 of Part 2 of the Code of Civil
38 Procedure to determine the legality and validity of a deed, patent,
39 agreement, or other instrument executed in furtherance of or
40 authorized by this act, or an action of the city or agency to use,

1 lease, or convey any property, or to approve project agreements,
2 grant entitlements or permits, or issue bonds or other indebtedness
3 in connection with the use and development of that property.
4 Before the filing of an action, the Attorney General, the director,
5 and the executive officer of the commission shall be provided
6 written notice of the action and a copy of the complaint. An action
7 authorized by this subdivision may be combined with an action
8 authorized by subdivision (a).

9 SEC. 36. If a provision of this act, or its application to a person,
10 property, or circumstance, is held invalid by a court, the invalidity
11 or inapplicability of that provision shall not affect any other
12 provision of this act or the application of that provision to any
13 other person, property, or circumstance, and the remaining portions
14 of this act shall continue in full force and effect, unless enforcement
15 of this act as so modified by and in response to that invalidation
16 would be grossly inequitable under all of the circumstances, or
17 would frustrate the fundamental purposes of this act.

18 SEC. 37. The Legislature finds and declares that, because of
19 the unique circumstances applicable only to the lands described
20 in this act, a statute of general applicability cannot be enacted
21 within the meaning of subdivision (b) of Section 16 of Article IV
22 of the California Constitution. Therefore, this special statute is
23 necessary.

24 SEC. 38. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district are the result of a program for which legislative authority
28 was requested by that local agency or school district, within the
29 meaning of Section 17556 of the Government Code and Section
30 6 of Article XIII B of the California Constitution.