COMMENTS OF
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Assemblyman, 46th District

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PROPERTY MANAGEMENT

Senate Bill No. 1461

CHAPTER 1555

An act to amend Section 1 of, and to add Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20 to, Chapter 57 of the Statutes of 1915, relating to tidelands and submerged lands.

[Approved by Governor November 17, 1971. Filed with Secretary of State November 17, 1971.]

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

SECTION 1. The Legislature makes the following findings and determinations:

(a) By Chapter 57 of the Statutes of 1915, the Legislature conveyed certain tide and submerged lands in trust to the City of Redondo Beach for the purposes therein stated, primarily for the promotion and accommodation of commerce, navigation, and fisheries.

(b) A portion of such tide and submerged lands has been filled and reclaimed in accordance with a master plan of improvement of said granted tide and submerged lands, including the development of a harbor facility.

(c) The City of Redondo Beach, through development of its harbor, has caused to be made available approximately 1,500 boat slips, boat fuel docks, boat service yards, boat hoists, boat rental facilities, and free fishing from three different piers, has constructed two breakwaters, is in the process of providing public parking facilities and will provide parking for in excess of 1,000 cars, and will provide numerous recreational amenities including, but not limited to, nautical museums, restaurants, motels, and other tourists facilities.

(d) The City of Redondo Beach has made available, by the development of access facilities and other recreational amenities, an additional three miles of shoreline providing access to the ocean for recreational, commercial, and navigational purposes.

(e) The City of Redondo Beach is currently undergoing a large scale redevelopment project which has revitalized the waterfront areas fronting the city.

(f) In accordance with the master plan of the City of Redondo Beach for the development of the tide and submerged lands granted to it in trust pursuant to Chapter 57 of the Statutes of 1915, Parcels 1 through 4, inclusive, as described in Section 5 of said act, being a relatively small portion of such granted tide and submerged lands, were filled, reclaimed, and

optioned for lease or leased, and are producing income to support the statutory trusts under which such tide and submerged lands are held by said city and, except for the production of income to support said trusts are, under such master plan, no longer required or needed for the promotion of said trusts.

(g) Said Parcels 1 through 4, inclusive, are no longer needed or required for purposes of navigation, commerce, and fisheries and should be freed of the public trust for navigation, commerce, and fisheries but should continue to be held in trust by the City of Redondo Beach subject to the terms and provisions of Chapter 57 of the Statutes of 1915, as amended and supplemented by this act, and to other laws applicable to the tide and submerged lands included in such grant to the City of Redondo Beach, but subject to no condition of use other than the uses set forth in the existing options to lease and leases of said Parcels 1 through 4, inclusive, and subject to the condition that the revenues derived from the leasing or administration of said Parcels 1 through 4, inclusive, shall be used in furtherance of the purposes of the trust under which other tide and submerged lands are held by the City of Redondo Beach as expressed in Chapter 57 of the Statutes of 1915, as amended and supplemented by this act.

(h) The release of said Parcels 1 through 4, inclusive, from the public trust for navigation, commerce, and fisheries to the extent expressed in subdivision (g) of this section is in the best interests of the people of the State of California.

SEC. 2. Section 1 of Chapter 57 of the Statutes of 1915 is amended to read:

Section 1. There is hereby granted and conveyed in trust to the City of Redondo Beach, hereinafter referred to as the "city," 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 of the tide and submerged lands within the present boundaries of the city and situated below the mean high tide line of the Pacific Ocean, which lands, except for the lands described in Section 5 of this act, are to be forever held by the city and its successors in trust for the uses and purposes and upon the express conditions following, to wit:

(a) For the establishment, improvement, and conduct of harbors, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient, for the promotion and accommodation of commerce and navigation.

(b) For all marine-oriented commercial and industrial uses and purposes, and the construction, reconstruction, repair, and maintenance of marine-oriented commercial and industrial buildings, plans, and facilities.

(c) For the construction, reconstruction, repair, and maintenance of highways, streets, roadways, bridges, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary, or convenient for the promotion and accommodation of any of the uses set forth in this section.

(d) For the construction, reconstruction, repair, maintenance, and operation of public parks, public playgrounds, public bathhouses, and public bathing facilities, public recreation and public fishing piers, including, but not limited to, all facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any such marine-oriented uses in the statewide interest.

(e) For the establishment, improvement, and conduct of small boat harbors, marinas, aquatic playgrounds and similar recreational facilities, and for the construction, reconstruction, repair, maintenance, and operation of all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of such uses, including, but not limited to, snackbars, cafes, cocktail lounges, restaurants, motels, hotels, and other forms of transient living accommodations open to the public, launching ramps and hoists, storage sheds, boat repair facilities with cranes and marine ways, public restrooms, bait and tackle shops, chandleries, boat sales establishments, service stations and fuel docks, yacht club buildings, parking areas, roadways, pedestrian ways and landscaped areas, and other compatible commercial and recreational activities and uses.

(f) For the protection of wildlife habitats, the improvement, protection, and conservation of the wildlife and fish resources and the ecology of the area, the providing of open-space areas and areas for recreational use with open access to the public, the enhancement of the aesthetic appearance of the area, control of dredging or filling of the area, or both, and prevention of pollution of the area.

SEC. 3. Section 2 is added to Chapter 57 of the Statutes of 1915, to read:

Sec. 2. The city, or its successors, shall not at any time grant, convey, give, or alienate said lands, or any part thereof, to any individual, firm, or corporation for any purpose whatsoever; provided, that the city, or its successors, may grant franchises thereon for limited periods for those uses and purposes set forth in Section 1 of this act and may lease said lands, or any part thereof, for limited periods for purposes consistent with the trusts upon which said lands are held by the State of California and with the requirements of commerce or navigation.

SEC. 4. Section 3 is added to Chapter 57 of the Statutes of 1915, to read:

Sec. 3. The harbor established pursuant to subdivision (a) of Section 1 of this act shall be improved by the city without expense to the state, and shall always remain a public harbor for all purposes of commerce and navigation, and the state shall have, at all times, the right to use, without charge, all wharves, docks, piers, slips, quays, and other improvements constructed on said lands, or any part thereof, for any vessel or other water craft, or railroad owned or operated by the state.

SEC. 5. Section 4 is added to Chapter 57 of the Statutes of 1915, to read:

Sec. 4. In the management, conduct, or operation of said harbor, or of any of the utilities, structures, or appliances mentioned in subdivision (a) of Section 1 of this act, no discrimination in rates, tolls, charges, or in facilities for any use or service in connection therewith shall ever be made, authorized, or permitted by the city or by its successors. The absolute right to fish in the waters of said harbor, with the right of convenient access to such waters over said lands for such purpose, is hereby reserved to the people of the State of California.

SEC. 6. Section 5 is added to Chapter 57 of the Statutes of 1915, to read:

Sec. 5. The following four described parcels of land conveyed in trust to the city under the provisions of Section 1 of this act are freed of the public trust for navigation, commerce, and fisheries, but shall continue to be held in trust by the city subject to the terms and provisions of this act and to other laws applicable to tide and submerged lands included in such grant to the city, subject to no condition of use other than the uses set forth in the existing options to lease and leases of such parcels, and subject to the condition that the revenues derived from the leasing or administration of such parcels shall be used in furtherance of the purposes of the trust under which other tide and submerged lands are held by the city in accordance with this act:

Parcel 1

That area of Tidelands and Submerged land lying within the City of Redondo Beach, County of Los Angeles, State of California, described as follows:

Beginning at a survey monument designated as 'H-12' on Map of Record of Survey filed in Book 78, Page 100 of Record of Surveys of said County; thence S 86° 06' 15" W 58.33 ft. to the True Point of Beginning; thence S 32° 44' 55" W 180.15 ft.; thence N 57° 15' 05" W 53.75 ft.; thence N. 32°

(i) For any other uses or purposes of statewide, as distinguished from purely local or private, interest and benefit which are in fulfillment of those trust uses and purposes described in this act.

(j) For the acquisition of property and the rendition of services reasonably necessary to the carrying out of the uses and purposes described in this section, including the amortization or debt service of any capital improvement funding program which is consistent with the terms and conditions set forth in this act.

SEC. 11. Section 10 is added to Chapter 57 of the Statutes of 1915, to read:

SEC. 10. Such revenues may be deposited in one or more reserve funds for use in accordance with the terms and conditions set forth in this act.

SEC. 12. Section 11 is added to Chapter 57 of the Statutes of 1915, to read:

SEC. 11. As to the accumulation and expenditure of revenues for any single capital improvement on the granted tidelands and submerged lands involving an amount in excess of two hundred fifty thousand dollars ($250,000) in the aggregate, the city shall file with the State Lands Commission a detailed description of such capital improvement not less than 90 days prior to the time of any disbursement therefor or in connection therewith, excepting preliminary planning. The State Lands Commission may, within 90 days after the time of such filing, determine and notify the city that such capital improvement is not in the statewide interest and benefit or is not authorized by the provisions of Sections 1 and 9 of this act. The State Lands Commission may request the opinion of the Attorney General on the matter, and if it does so, a copy of such opinion shall be delivered to the city with the notice of its determination. In the event the State Lands Commission notifies the city that such capital improvement is not authorized, the city shall not disburse any revenue for, or in connection with, such capital improvement, unless and until it is determined to be authorized by a final order or judgment of a court of competent jurisdiction. The city is authorized to bring suit against the state for the purpose of securing such an order or adjudication, which suit shall have priority over all other civil matters. Service shall be made upon the Executive Officer of the State Lands Commission and the Attorney General, and the Attorney General shall defend the state in such suit. Each party shall bear its own costs of suit and no such costs shall be recovered from the other party.

SEC. 13. Section 12 is added to Chapter 57 of the Statutes of 1915, to read:

Sec. 12. At the end of each fiscal year, beginning September 30, 1976, that portion of trust revenues in excess of two hundred fifty thousand dollars ($250,000) remaining after current and accrued operating costs and expenditures directly related to the operation or the maintenance of beaches, harbors, and other tidelands trust activities have been paid, shall be deemed excess revenue; provided, that any funds deposited in a reserve fund for future capital expenditures, or any funds required to service or retire general obligation or revenue bond issues, or special funds required to be maintained for the payment of contractual obligations owing to the state on account of harbor improvements authorized by the provisions of Article 3 (commencing with Section 70) of Chapter 2 of Division 1 of the Harbors and Navigation Code, the moneys from which have been, or will be, used for purposes authorized by law, shall not be deemed excess revenue. Amortization payments made subsequent to the effective date of the enactment of this section at the 1971 Regular Session of the Legislature for capital improvements of the granted tidelands and submerged lands for purposes authorized by the terms of the grant may be considered as expenditures for the purpose of determining net revenues. The excess revenue, as determined pursuant to this section, shall be divided as follows: 85 percent to the General Fund in the State Treasury, and 15 percent to the city to be deposited in the city's trust fund and used for any purpose authorized by Sections 1 and 9 of this act.

SEC. 14. Section 13 is added to Chapter 57 of the Statutes of 1915, to read:

Sec. 13. The State Lands Commission, at the request of the city, shall grant an extension of time for filing any report or statement required by this act which was not filed due to mistake or inadvertence not to exceed 30 calendar days after service upon the city by the State Lands Commission of written notice of violation.

SEC. 15. Section 14 is added to Chapter 57 of the Statutes of 1915, to read:

Sec. 14. In the event that the city fails or refuses to file with the State Lands Commission or with the Auditor General any report, statement, or document required by any provision of this act within the time period specified by this act, or any extension period granted pursuant to this act, within 30 days after written notice to the city, or fails or refuses to carry out the terms of the grant within 30 days after written notice to the city, the State Lands Commission or the Auditor General shall within 60 days notify the Chief Clerk of the Assembly and the Secretary of the Senate.

The Attorney General shall, upon request of the State Lands Commission, after the city has been given such notice and

after such failure or refusal by the city, bring such judicial proceedings for correction and enforcement as are appropriate, and shall act to protect any properties and assets situated on the granted tidelands or derived therefrom.

SEC. 16. Section 15 is added to Chapter 57 of the Statutes of 1915, to read:

SEC. 15. The State Lands Commission may from time to time, at the request of the Legislature, institute a formal inquiry to determine that the terms and conditions of the grant and amendments and supplements thereto have been complied with, and that all other applicable provisions of law concerning these specific granted tidelands and submerged lands are being complied with in good faith.

SEC. 17. Section 16 is added to Chapter 57 of the Statutes of 1915, to read:

SEC. 16. The Auditor General shall, on or before March 30 of each year, commencing on March 30 1975, report to the Chief Clerk of the Assembly, to the Secretary of the Senate, and to the State Lands Commission, the full details of any transaction or condition reported to him pursuant to this act which he deems in probable conflict with the requirements of this act, or with any other applicable provision of law concerning these specific granted tidelands and submerged lands.

SEC. 18. Section 17 is added to Chapter 57 of the Statutes of 1915, to read:

SEC. 17. The Attorney General shall bring an action in the Superior Court of the County of Los Angeles to declare that the grant under which the city holds such tidelands and submerged lands is revoked for gross and willful violation of the terms of the grant or other applicable provisions of law concerning these specific granted tidelands and submerged lands, or to compel compliance with the terms and conditions of the grant, or the provisions of such other applicable law, upon request by concurrent resolution of either house of the Legislature or upon formal request of the State Lands Commission. Such request shall be made only after a finding that the city has grossly and willfully violated the terms of the grant or other applicable provisions of law concerning these specific granted tidelands and submerged lands.

Such finding shall be supported by substantial evidence and shall be made only at the conclusion of a noticed public hearing at which the city has been given an opportunity to present evidence to fully describe conditions and extenuating circumstances and to present facts to disprove the alleged violation.

SEC. 19. Section 18 is added to Chapter 57 of the Statutes of 1915, to read:

SEC. 18. In the event the grant of tidelands and submerged lands in trust to the city is revoked pursuant to Section 17

of this act, such revocation shall not impair or affect the security of leases or the rights or obligations of third parties, including lessees, lenders for value, or others who are parties to contracts which, except for such revocation, would be lawful and binding contracts.

SEC. 20. Section 19 is added to Chapter 57 of the Statutes of 1915, to read:

Sec. 19. The provisions of Sections 8 through 13 of this act relating to the deposit, accounting, and use of revenues derived from the uplands described in subdivision (b) of Section 8 of this act shall no longer be of any force and effect as to such uplands upon the payment of the bonded debt incurred by the city in connection with the development of the Redondo Beach King Harbor or the payment of any refinancing thereof, up to a maximum sum of ten million dollars ($10,000,000), whichever occurs last. Upon the happening of the latter of such events, all revenues derived from the uplands may be utilized by the city for any lawful municipal purpose.

SEC. 21. Section 20 is added to Chapter 57 of the Statutes of 1915, to read:

Sec. 20. Nothing contained in this act shall in any way impair or affect the rights or obligations of third parties, including, but not limited to, optionees, lessees, lenders for value, and holders of contracts conferring the right to the use and occupation of, or the right to conduct operations upon, lands described in this act arising from options, leases, contracts, or other instruments entered into by the city in good faith prior to the effective date of this section enacted at the 1971 Regular Session of the Legislature.

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