

Date of Hearing: April 25, 2018

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 3160 (Grayson) – As Amended April 18, 2018

SUBJECT: Federal public lands: conveyances: defense base closure and realignment.

SUMMARY: Requires the State Lands Commission (SLC) to waive specified rights and issue a certification of compliance for the conveyance of property that is authorized for disposal or realignment by the federal government during the base realignment and closure process. Specifically, **this bill:**

- 1) Requires the SLC to issue a certification of compliance for the sale or lease of surplus or excess real property that is authorized for disposal or realignment by the federal government during the base realignment and closure process.
- 2) Allows the Executive Officer of the SLC to issue the certification of compliance.

EXISTING LAW:

- 1) Requires SLC to be the steward and manager of the state's public trust lands. SLC has direct administrative control over the state's public trust lands and oversight authority over public trust lands granted by the Legislature to local governments.
- 2) Authorizes SLC, under specified conditions, to approve the exchange of lands of equal value with the federal government. Requires all lands acquired to be subject to the laws governing state lands of the class from which the exchange was made.
- 3) Authorizes SLC to purchase outstanding interests in tide and submerged lands that have been or may be converted to wetlands, or adjoining or nearby lands where the public use and ownership of the land is in furtherance of public trust purposes.
- 4) Authorizes federal agencies to convey federal public lands, under certain circumstances.
- 5) Prohibits a person from knowingly presenting for recording or filing with a county recorder a deed, instrument, or other document related to a conveyance of federal land, unless SLC is given right of first refusal for the conveyance or the right to arrange for the transfer of the federal public land. Declares it is the policy of the State of California to discourage conveyances that transfer ownership of federal public lands in California from the federal government.
- 6) Requires SLC to waive its right of first refusal or the right to arrange for the transfer of the federal public lands to another entity, and issue a certification of compliance affirming compliance with this section for any of the following:
 - a) The conveyance of federal public lands pursuant to a conservation plan;
 - b) The renewal of a lease in existence as of January 1, 2017; and,

- c) The conveyance of federal public lands to a federally recognized Native American tribe or lands taken into or out of trust for a Native American tribe or individual Native American.

FISCAL EFFECT: This bill is keyed fiscal.

COMMENTS:

- 1) **Bill Summary.** This bill requires the SLC to issue a certification of compliance for the sale or lease of surplus or excess real property that is authorized for disposal or realignment by the federal government during the base realignment and closure process. This bill allows the Executive Officer of the SLC to issue the certification of compliance to reduce the amount of time to issue the certification of compliance.

This bill is sponsored by the City of Concord.

- 2) **Author's Statement.** According to the author, "After over ten years of planning, including multiple levels of state and federal regulatory review, and millions of taxpayers' dollars spent to meet requirements for property transfer and redevelopment, the U.S. Navy and Concord Local Reuse Authority expect to reach First Transfer of approximately 3,200 acres of the planned transfer of 5,000 acres within the next 12 months (by March 2019.)

"Newly enacted state law now requires these transfers to be approved by the State Lands Commission under a set of regulations that have yet to be drafted or adopted. This new requirement will undoubtedly impede the timing of the transfer and impact job creation, affordable housing, protections of endangered species, parks and open space; and numerous other economic development benefits from the Reuse Project.

"The Concord Reuse Project is but one of numerous Base Realignment and Closure (BRAC) projects in California negatively impacted by this new state law. The City of Concord's Local Reuse Authority has been planning for the transfer of surplus federal property related to the closure of the Concord Naval Weapons Station for over ten years."

- 3) **Background.** The federal government owns roughly 640 million acres, more than a quarter of the land in the United States. The federal agencies that manage most of these lands include Bureau of Land Management, Forest Service, Fish and Wildlife Service, and National Parks System. These lands are heavily concentrated in 12 western states, where the federal government owns slightly less than half of the overall land area. In California, the federal government owns approximately 45% of the land, including Yosemite National Park, Point Reyes National Seashore, Joshua Tree National Park, and several national forests and monuments. In comparison, east of the Mississippi River the federal government owns only 4% of land. Much of the land managed by the Bureau of Land Management is available for leases to ranchers for grazing and to companies that mine or produce oil.

There have been various proposals in Congress, the Republican Party platform, and in western state legislatures to either sell federal land through a competitive bid process or transfer federal land to states for management. Supporters of these efforts contend that there is excessive federal influence over their lives and economies and that the federal government should divest itself of many lands. However, much of the public in California supports federal ownership of land for the benefit of the public. In addition, the federal government

spends billions maintaining federal lands and charges lower rents for grazing and mining permits than private land owners. Therefore, states and land users would likely see increased costs under these proposals.

In April 2017, President Donald Trump ordered a review of two dozen national monuments, which could put about six California national monuments up for reconsideration ranging from the wildflower-rich Carrizo Plain National Monument in the San Joaquin Valley to the Giant Sequoia National Monument in the western slopes of the Sierra Nevada mountain range. The Executive Order instructs Department of Interior Secretary Ryan Zinke to issue recommendations to the president on whether to rescind, reduce, or modify monuments that are larger than 100,000 acres or where the designation was made without enough public input or coordination. These monuments were issued using the 1906 Antiquities Act signed by President Theodore Roosevelt. On December 5 2017, Secretary Zinke called on President Trump to shrink four national monuments, including Bear Ears and Grand Staircase-Escalante in Utah.

SB 50 (Allen), Chapter 535, Statutes of 2017, declares that it is the policy of the State of California to discourage conveyances that transfer ownership of federal public lands in California from the federal government. It also attempts to establish a right of first refusal for the state to buy, accept, or select the recipient of the federal land. SB 5 (De León), Chapter 852, Statutes of 2017, if approved by voters, would authorize the Wildlife Conservation Board to allocate money to the SLC to acquire an interest in federal public lands that may be proposed for sale or disposal. On April 2, 2018, the U.S. Justice Department filed suit against SB 50 saying that it interferes with the disposal of federal land. The lawsuit cited examples of conveyances of federal real property, such as property owned by the Department of the Army, the Department of the Navy, and the Department of Veterans Affairs. In all instances, SLC could decline to exercise its right of first refusal and allow these conveyances to continue. SLC has already declined to exercise its right of first refusal once consistent with the requirements of SB 50.

- 4) **Arguments in Support.** Supporters argue that an exemption for BRAC redevelopment projects from the Public Resources Code 8561 is clearly warranted, and does not undermine the policy intent found in the original enactment of SB 50.
- 5) **Arguments in Opposition.** None on file.
- 6) **Double-referral.** This bill was heard in the Natural Resources Committee on April 16, 2018, and passed on an 8-0 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

City of Concord [SPONSOR]

Opposition

None on file

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