

Date of Hearing: June 29, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Susan Talamantes Eggman, Chair

SB 1172 (Hancock) – As Amended June 15, 2016

SENATE VOTE: 38-0

SUBJECT: Tidelands and submerged lands: City of Albany.

SUMMARY: Repeals the existing granting statute to the City of Albany (City) to eliminate the requirement that the trust lands be used in a manner consistent with an obsolete Waterfront Plan from 1977, and replaces the outdated granting statute with a new grant of public trust lands that is consistent with the City's current waterfront improvement plans. Specifically, **this bill:**

- 1) Requires the City to submit a trust lands use plan to State Lands Commission (SLC) for approval on or before January 1, 2022. Requires the plan to include all of the following:
 - a) Any proposed development, preservation, or other use of the trust lands;
 - b) The projected statewide benefit;
 - c) The proposed method of financing any development;
 - d) An estimated timetable for implementing each phase of the plan; and,
 - e) The City's proposal to protect the resources and facilities on the trust lands, particularly from the impacts of sea level rise.
- 2) Requires the City to submit a report to SLC on or before September 30, 2022, and every five years thereafter, the utilization of the trust lands.
- 3) Requires the City to establish an accounting system to track revenue received from the trust lands and any associated assets. Requires any revenue received to be kept separate from other City money and only expended in a manner consistent with this bill.
- 4) Requires the City to obtain approval from SLC before spending trust revenues for any large capital improvement project (\$250,000 or greater).
- 5) Requires 20% of trust revenue be transmitted to SLC. Requires, of this amount transmitted, 80% to be put in the General Fund and the remaining 20% to be deposited in the Land Bank Fund.
- 6) Permits the City to lease the land, under specified conditions, for less than 50 years.

EXISTING LAW:

- 1) Protects, pursuant to the common law public trust doctrine, the public's right to use California's waterways for water-dependent commerce, navigation, fishing, boating, natural habitat protection, and other water-oriented activities. Establishes, pursuant to the public

trust doctrine, that filled and unfilled tide and submerged lands and the beds of lakes, streams, and other navigable waterways are to be held in trust by the state for the benefit of the people of California.

- 2) Requires the SLC to be the steward and manager of the state's public trust lands. Gives the SLC direct administrative control over the state's public trust lands and oversight authority over public trust lands granted by the Legislature to local public agencies.
- 3) Grants, in trust, state public trust lands to over 80 local public agencies (local trustees) to be managed for the benefit of all the people of the state and pursuant to the Public Trust Doctrine and terms of the applicable granting statutes.
- 4) Grants the City three parcels of submerged tidelands along the San Francisco Bay waterfront for the establishment, improvement, and conduct of a harbor and other structures and utilities necessary for the promotion of commerce and navigation.
- 5) Requires future developments to be consistent with the Albany Waterfront Plan of 1977, which permits recreation-oriented development, including a small craft marina and retail complex. Authorizes the City to grant franchises and leases on the granted land for up to 66 years.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

- 1) **Public Trust and Granted Lands.** The common law doctrine of the public trust (Public Trust Doctrine) protects the public's right to use California's waterways for commerce, navigation, fishing, boating, natural habitat protection, and other water-oriented activities. The Public Trust Doctrine provides that filled and unfilled tide and submerged lands and the beds of lakes, streams, and other navigable waterways, known as public trust lands, are to be held in trust by the state for the benefit of the people of California.

Only in rare cases may the public trust be terminated, and only where consistent with the purposes and needs of the trust. For over 100 years, in more than 300 statutes, the Legislature has granted public trust lands to local trustees so the lands can be managed locally for the benefit of the people of California. There are over 80 trustees in the state, including the ports of Los Angeles, Long Beach, San Diego, San Francisco, Oakland, Richmond, Benicia, and Eureka. While these trust lands are managed locally, SLC has oversight authority to ensure those local trustees are complying with the public trust doctrine and the applicable granting statutes.

- 2) **The Albany Neck and Bulb.** In 1919, the state granted the City three parcels of submerged tidelands along the San Francisco Bay waterfront. These lands include what is now known as the Albany Neck and Bulb portion of the waterfront. The Neck and Bulb are located at the base of Buchanan Street and protrude into the bay. This granting statute was later amended (Chapter 1223, Statutes of 1977) to require that future development is consistent with the Albany Waterfront Plan. The Albany Waterfront Plan reflected the City's plans at that time

for recreation-oriented development, including constructing a small craft marina and retail complex. However, the plan was never implemented.

The City is currently in the process of developing a new plan for improving the Albany Neck and Bulb area and transitioning the area to become part of the McLaughlin Eastshore State Park. The McLaughlin Eastshore State Park includes tidelands and upland property along 8.5 miles of shoreline extending from the City of Richmond in the north to Emeryville and Oakland in the south. McLaughlin Eastshore State Park is operated by the East Bay Regional Park District. The Albany Bulb and Neck is currently open to the public for recreational uses. This bill would allow the City to enter into an agreement with East Bay Regional Park District to manage the Albany Neck and Bulb as part of the McLaughlin Eastshore State Park.

- 3) **Bill Summary.** This bill repeals the existing granting statute to the City of Albany to eliminate the requirement that the trust lands be used in a manner consistent with the obsolete Waterfront Plan from 1977. This bill replaces that outdated granting statute with a new grant of public trust lands that is consistent with the city's current waterfront improvement plans. This bill is sponsored by the City and SLC.
- 4) **Author's Statement.** According to the author, "This is a District bill to assist the City of Albany with managing and improving its waterfront. The City of Albany owns tide and submerged lands along its waterfront that are held in trust for the public. The City manages the lands under the common law Public Trust Doctrine and its legislative granting statutes. The lands include a former landfill site and an area known as the Bulb and Neck portion of the waterfront. SB 1172 amends the City's granting statute to align with the City's current plans for its waterfront."
- 5) **Arguments in Support.** Supporters argue that this bill eliminates the requirement that the trust lands are used in a manner that is consistent with the obsolete Waterfront Plan and require the City to submit a new land use plan and sea level rise analysis to the SLC for approval. Additionally this bill modernizes non-discrimination language in the granting statute to reflect current law, and aligns the City's financial reporting requirement with current law.
- 6) **Arguments in Opposition.** None on file.
- 7) **Double-Referral.** This bill was heard by the Natural Resources Committee on June 13, 2016, where it passed with a 9-0 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Lands Commission [SPONSOR]
City of Albany [SPONSOR]
East Bay Regional Park District

Opposition

None on file

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