

Date of Hearing: July 15, 2015

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Brian Maienschein, Chair

SB 399 (Hall) – As Amended June 25, 2015

SENATE VOTE: 36-0

SUBJECT: Tidelands and submerged lands: City of Los Angeles.

SUMMARY: Allows the City of Los Angeles (City) to renew a franchise or permit on, or lease of, specified tidelands and submerged lands, for unspecified periods of time.

EXISTING LAW:

- 1) Protects, pursuant to the common law doctrine of the Public Trust, 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 are to be held in trust by the state for the benefit of the people of California.
- 2) Requires the State Lands Commission (SLC) to be the steward and manager of the state's public trust lands, and specifies that 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.
- 3) Grants, to the City, a municipal corporation of the State of California, and to its successors, all the right, title and interest of the State of California, held by the state by virtue of its sovereignty, in and to all tidelands and submerged lands, whether filled or unfilled, situated below the line of mean high tide of the Pacific Ocean, within the present boundaries of the City, or of any harbor, estuary, bay or inlet whose boundaries, except as specified, to be forever held by the City, and by its successors, in trust for the following uses and purposes, and upon the following conditions:
 - a) The lands shall be held by the City, and by its successors, in accordance with the applicable provisions, for purposes in connection with, or for the promotion and the accommodation of, commerce, navigation, and fishery, and for those purposes, as specified;
 - b) Except as other provided, the City, or its successors, shall not grant, convey, give or alien the 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 and permits thereon for limited period, but not to exceed 50 years, for purposes in connection with, or for the promotion and accommodation of, commerce, navigation, fishery, and for any purposes, as specified, and may lease the lands, or any part thereof for limited period, but not to exceed 50 years, for any and all purposes which shall not interfere with the trusts upon which the lands are held by the State of California;
 - c) The tide and submerged lands shall be improved by the City without expense to the state, and any harbor constructed thereon shall always remain a public harbor for all purposes

of commerce and navigation, and the State of California shall have, at all times, the right to use, without charge, all wharves, docks, piers, slips, quays, and other improvements constructed by the City on the lands, or any part thereof, for any vessel or other watercraft, or railroad, owned or operated by the State of California; and,

- d) In the management, conduct or operation of any such harbor, or any of the utilities, structures or appliances constructed in connection therewith, no discrimination in rates, tolls, or 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.
- 4) Declares that there is reserved in the people of the State of California the absolute right to fish in the waters, with the right of convenient access to the waters over the lands for those purposes. The grant herein made shall not include those tidelands or submerged lands within those certain areas known as the Westgate addition acquired by the City of Los Angeles by annexation on June 14, 1916, or the Santa Monica canyon addition acquired by the City of Los Angeles by annexation on April 28, 1925, or the Venice addition acquired by the City of Los Angeles by consolidation on November 25, 1925.

FISCAL EFFECT: None

COMMENTS:

- 1) **Bill Summary.** This bill allows the City to renew a franchise or permit on, or lease of, specified tidelands and submerged lands, for unspecified periods of time.

This bill is sponsored by Los Angeles City Councilman Joe Buscaino.

- 2) **Author's Statement.** According to the author, "Historically, the Port of Los Angeles and the surrounding San Pedro-Wilmington communities have been closely linked and mutually interdependent. Unfortunately, this connection has diminished in recent decades and while there are isolated areas of successful visitor-oriented commercial enterprises along the waterfront, there is a growing issue of abandoned, vacant, or underutilized sites.

"Recognizing that these issues need to be addressed in a comprehensive fashion, Los Angeles City Councilman Joe Buscaino, in close cooperation with Mayor Eric Garcetti and the Los Angeles Harbor Department, initiated the LA Waterfront planning and development program. This program is focused on establishing a framework for enhancing the San Pedro-Wilmington communities by providing waterfront access with landscaped boulevards, promenades, parks, and urban squares as well as development opportunities that will provide one-of-a-kind experiences for both tourists and residents alike.

"Unfortunately, major public and private stakeholders, including the Los Angeles County Economic Development Corporation (LAEDC), have concluded that having the ability to exceed the current 50-year regulatory restriction on franchises, permits and leases granted for port and waterfront area activities is necessary for the success of the LA Waterfront program. In order for the LA Waterfront program to realize its full potential of generating new community benefits and private development opportunities, restrictions on lease terms must be addressed.

"SB 399 will allow the City of Los Angeles to grant lease extensions in the Port of Los Angeles. This will give the City the ability to promote new waterfront related enhancements and economic opportunities benefiting underserved communities while maintaining the integrity of the State Tidelands Trust."

- 3) **Background.** For over 100 years, the Legislature has granted public trust lands to local governments so the lands can be managed locally for the benefit of the people of California. Currently, 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. The SLC has oversight authority to ensure those local trustees are complying with the Public Trust Doctrine and the applicable granting statutes, even though these trust lands are managed locally.

The Legislature granted, in trust, three public trust parcels to the City in 1911, and since that time, there have been many revisions to the statutes granting the City those lands. The statute originally allowed 25-year leases, which was later amended to 30 years, and in 1951, the lease term was lengthened to 50 years. Because of efforts in the City to redevelop the Los Angeles Waterfront, including its granted public trust lands, the 50-year lease length may present an obstacle for such efforts. The author and sponsors point to a competitive disadvantage with the City of Long Beach, which is allowed to have one 25-year renewal in addition to their 50-year lease term.

- 4) **State Lands Commission.** The SLC, in their letter of concerns dated July 10, 2015, writes that the SLC staff "believes it is poor public policy to lease the State's Public trust lands for 75-year periods under the same lease terms. Based on our own experience with long-term legacy leases, 75-year leases will not reflect and keep pace with evolving environmental policies and practices, contemporary liability, insurance and indemnification provisions, market rates, modern land and resource management principles, and current public trust needs. Additionally, [SLC] believes that allowing 75-year leases prevents the City from fulfilling its duties as trustee of public trust land managed on the State's behalf, including the duties specified in Public Resources Code Section 6009.1, such as the duty of loyalty, care, and to keep control and to preserve the trust property...[SLC] believes that a maximum lease term of 66 years is sufficient for the City to meet its trustee responsibilities."
- 5) **Arguments in Support.** Mayor Garcetti writes that this bill will promote tourism, development, and investment in the Port of Los Angeles, and ensure that the Port remains a prime commercial destination for decades to come.
- 6) **Arguments in Opposition.** None on file.
- 7) **Double-Referral and Amendments.** This bill was heard by the Natural Resources Committee on July 13, 2015, and passed with a 9-0 vote.

Due to timing, amendments agreed to in the Natural Resources Committee will be adopted in this Committee. The current language in the bill would allow for unlimited renewal without a clear definition of whether the renewals would create an opportunity to evaluate whether the use is consistent with the Public Trust Doctrine. Amendments proposed by the Natural Resources Committee will give the City parity with the City of Long Beach by allowing one 25-year renewal. Please see the Natural Resources Committee analysis for further information

REGISTERED SUPPORT / OPPOSITION:

Support

Council Member Joe Buscaino, City of Los Angeles
Mayor Eric Garcetti, Mayor of Los Angeles
Los Angeles Chamber of Commerce
Los Angeles/Orange Counties Building and Construction Trades Council
San Pedro Chamber of Commerce
SBCC Thrive LA

Concerns

California State Lands Commission

Opposition

None on file

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