

**Senate Bill No. 507**

CHAPTER 372

An act to add Section 5.7 to the San Diego Unified Port District Act (Chapter 67 of the First Extraordinary Session of the Statutes of 1962), relating to tidelands and submerged lands, and making an appropriation therefor.

[Approved by Governor September 27, 2019. Filed with  
Secretary of State September 27, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 507, Atkins. San Diego Unified Port District: territory held in trust: State Lands Commission: grant of trust lands: City of San Diego.

(1) Existing law authorizes the establishment of the San Diego Unified Port District for the acquisition, construction, maintenance, operation, development, and regulation of harbor works and improvements for the harbor of San Diego and for the promotion of commerce, navigation, fisheries, and recreation. Existing law specifies the territory to be included in the district and grants and conveys in trust to the district in the County of San Diego all the right, title, and interest of the State of California acquired by the state pursuant to specified deeds. Existing law requires the district to transfer to the State Lands Commission revenues generated on the lands granted, as specified. Existing law requires the development of a master plan for harbor and port improvement, referred to as the Port Master Plan. Existing law requires the commission to manage specified public lands in the state, including tidelands and submerged lands. Existing law further establishes the Land Bank Fund in the State Treasury, and continuously appropriates moneys in the fund to the commission for expenditure for specified purposes related to land management, the preservation of open space, habitat for plants and animals, and public access.

This bill would grant in trust to the district certain additional tidelands and submerged lands held by the state within the San Diego Bay, subject to certain terms and conditions, as prescribed. The bill would require the district, by June 30, 2021, and at the end of every fiscal year thereafter, to transfer to the commission specified amounts of the revenues generated on those granted tidelands and submerged lands, and would require the commission to allocate those revenues to the Treasurer for deposit in the General Fund and the Land Bank Fund for management of the commission's granted lands program. By authorizing the deposit of additional moneys into a continuously appropriated fund, the bill would make an appropriation. The bill would require the district, on or before January 1, 2024, to submit to the commission a trust lands use plan describing any proposed development, preservation, or other use of the trust lands, and to, thereafter,

submit to the commission for its approval any proposed changes to, or amendment to, the trust lands use plan. The bill would authorize the commission to consider whether the Port Master Plan meets the requirements of, and may be considered, a trust lands use plan for the trust lands granted pursuant to the bill. The bill would require, if the commission enters into a different revenue sharing agreement, the commission to provide notice, as specified, to the Assembly Committee on Natural Resources and the Senate Committee on Natural Resources and Water. By imposing new duties on the district with regard to the management of, and accounting and transfer of funds from, those granted lands, the bill would impose a state-mandated local program.

(2) Under existing law, the commission has jurisdiction over certain public lands in the state, including tidelands and submerged lands. Existing law authorizes the commission to enter into an exchange, with any person or any private or public entity, of filled or reclaimed tidelands or submerged lands or beds of navigable waterways, or interests in these lands, that are subject to the public trust for commerce, navigation, and fisheries, for other lands or interests in lands if the commission finds that specified conditions are met, as prescribed.

This bill would grant and convey in trust to the City of San Diego, in the County of San Diego, and to its successors, all of the rights, title, and interests of the state, acquired and held by the state acting by and through the commission, subject to the common law public trust, pursuant to a specified agreement approved by the commission, in specified lands, as described. The bill would require the City of San Diego to hold these lands in trust for the same purposes and subject to the same conditions, restrictions, and requirements of certain other grants of public trust lands, as described, pursuant to a specified statute, as amended. The bill would require the City of San Diego, on or before January 1, 2024, to submit to the commission a trust lands use plan describing any proposed development, preservation, or other use of the trust lands, and to, thereafter, submit to the commission for its approval any proposed changes to, amendments to, or extensions of the trust lands use plan. The bill would require the termination of an existing interim trust lease between the commission and the City of San Diego covering those lands on January 1, 2020. By imposing new duties on a local government with regard to providing for the use and management of those trust lands, the bill would impose a state-mandated local program.

(3) This bill would make legislative findings and declarations as to the necessity of a special statute for the City of San Diego.

(4) 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.

Appropriation: yes.

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

SECTION 1. It is the intent of the Legislature that this act shall not affect any existing responsibility of the state or the San Diego Unified Port District for any pollution or contamination that may exist in the territory granted to the district pursuant to this act, at the time of the grant.

SEC. 2. Section 5.7 is added to the San Diego Unified Port District Act (Chapter 67 of the First Extraordinary Session of the Statutes of 1962), to read:

Sec. 5.7. (a) There is hereby granted in trust to the district all the right, title, and interest of the State of California, held by the state by virtue of its sovereignty, in and to all those remaining tidelands and submerged lands not previously granted, whether filled or unfilled, within the San Diego Bay lying northerly of the following described line:

Beginning at NGS monument Road 2 (PID DC1690), thence S 68°07'54" W 8,621.00 feet to NGS monument North Island NAS Shoran Tower (PID DC1727). The basis of bearings of this description is the California Coordinate System of 1983, Zone 6. All distances are grid distances.

(b) The district shall own, operate, and manage the public trust lands granted pursuant to subdivision (a) in accordance with the same terms, trusts, and conditions as the tide and submerged lands otherwise granted under this act.

(c) (1) (A) (i) By June 30, 2020, the district shall transfer to the State Lands Commission the initial sum of four hundred twelve thousand nine hundred three dollars (\$412,903) from the revenues generated on the lands granted pursuant to subdivision (a). This initial amount is based on the estimated gross annual revenues generated, as of June 30, 2020, from the lands granted pursuant to subdivision (a).

(ii) By June 30, 2021, and at the end of each fiscal year thereafter, the initial sum required to be transferred pursuant to clause (i) shall be adjusted according to the change in the Consumer Price Index, and that adjusted amount shall be transferred to the State Lands Commission.

(B) If the gross annual revenues generated by the lands granted pursuant to subdivision (a) exceed the amount required to be transferred to the commission pursuant to subparagraph (A), the district shall, in addition, transfer to the State Lands Commission 20 percent of the total amount of the excess annual gross revenues.

(C) Notwithstanding subparagraph (B), the State Lands Commission may, at its discretion and at a properly noticed public meeting, enter into different revenue sharing agreements, upon proposal by the district, if it finds that the agreement will provide a significant benefit to the public trust and is in the best interests of the state. If the State Lands Commission approves a revenue sharing agreement different from subparagraph (B), the State Lands Commission shall provide notification, in writing or email, to the Assembly Committee on Natural Resources and the Senate Committee on Natural Resources and Water.

(2) Upon receipt of the moneys pursuant to paragraph (1), the State Lands Commission shall allocate 80 percent to the Treasurer for deposit in the General Fund and 20 percent to the Treasurer for deposit in the Land Bank Fund for expenditure pursuant to Division 7 (commencing with Section 8600) of the Public Resources Code for management of the commission's granted lands program.

(d) On or before January 1, 2024, the district shall submit to the State Lands Commission a trust lands use plan for trust lands granted pursuant to this section, describing any proposed development, preservation, or other use of the trust lands. The district shall then submit to the State Lands Commission for its approval any proposed changes to, or amendment to, the trust lands use plan. The State Lands Commission, in its sole discretion, may consider whether the submission of the Port Master Plan, pursuant to Section 19, meets the requirements of, and therefore may be considered, a trust lands use plan for trust lands granted pursuant to this section.

(e) The requirements of Section 6359 of the Public Resources Code do not apply to the trust lands granted pursuant to this section.

SEC. 3. The Legislature finds and declares all of the following:

(a) Since the admission of California into the United States, certain tidelands and submerged lands have been, and are now held, in trust by the state for the benefit of all Californians for public trust purposes of navigation, commerce, fisheries, water-oriented recreation and public access, open space, scientific study, and ecological preservation.

(b) The state has a trusteeship duty to govern, administer, and control those lands for public trust purposes that benefit the statewide public.

(c) In fulfillment of its trusteeship duty and pursuant to Section 6307 of the Public Resources Code, the state, through the State Lands Commission, and the City of San Diego entered into the Land Exchange and Title Settlement Agreement for Mission Bay, that resulted in land commonly known as the Famosa Slough and referred to as "Public Trust Parcels" in the agreement being impressed with the public trust.

(d) The state may, when the interests of the statewide public will benefit, delegate, grant, and convey in trust to local governments limited and defined areas of public trust lands along with the authority and responsibility to govern, control, improve, and develop those lands in the interests of all of the inhabitants of the state for public trust purposes.

SEC. 4. (a) There is hereby granted and conveyed in trust to the City of San Diego, in the County of San Diego, and to its successors, all of the rights, title, and interests of the State of California in certain trust lands, acquired and held by the state acting by and through the State Lands Commission, subject to the common law public trust pursuant to an agreement that was approved as Calendar Item C47 of the October 27, 2011, meeting of State Lands Commission, as those lands are described as follows:

(1) A parcel of land referred to as "Public Trust Parcel 1" in the Land Exchange and Title Settlement Agreement for Mission Bay and described as follows:

(A) Parcel 3 of Parcel Map no. 12389, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, October 22, 1982, recorder's file no. 82-325813 of official records.

(B) The above-described parcel contains 10.9705 acres.

(2) A parcel of land referred to as "Public Trust Parcel 2" in the Land Exchange and Title Settlement Agreement for Mission Bay and described as follows:

(A) That portion of Pueblo Lot 211 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to map thereof made by James Pascoe in 1870, a copy of which said map was filed in the Office of the County Recorder of San Diego County, and is known as Miscellaneous Map No. 36, and a portion of Block "D" of Loma Alta No. 2, according to map thereof no. 1082, being filed in the Office of the County Recorder of San Diego County, and being more particularly described as follows:

(i) Commencing at the City of San Diego Horizontal Control Station GPS 237, having a coordinate value of North 1,855,965.87 feet, East 6,263,386.69 feet based on the North American Datum of 1983 (NAD 83, Epoch 1991.35), as shown on Record of Survey No. 14492, filed in the office of the County Recorder of above said San Diego County on March 31, 1994, said station bears North  $46^{\circ}13'14''$  East 5,554.04 feet from City of San Diego Horizontal Control Station GPS 214, having a coordinate value of North 1,852,123.11 feet, East 6,259,376.63 feet as shown on above said Record of Survey No. 14492, thence South  $65^{\circ}48'22''$  West 2,304.58 feet to the intersection of the westerly line of Loma Palisades Unit No. 3, according to map thereof no. 3798, filed in the Office of the County Recorder of San Diego County, February 5, 1958, with the southerly line of West Point Loma Boulevard as said intersection is shown on said map no. 3798, said intersection being the point of beginning.

(ii) Thence along the westerly and northwesterly boundary of said map no. 3798 as follows: South  $05^{\circ}37'27''$  East 433.29 feet to a point hereinafter referred to as point "A."

(iii) Thence continuing along the westerly and northwesterly boundary of said map no. 3798, South  $05^{\circ}37'27''$  East 276.60 feet and South  $36^{\circ}44'24''$  West 495.24 feet to an angle point therein; being also a point in the southeasterly line of said Block "D" of said Loma Alta No. 2.

(iv) Thence along the southeasterly line of said Block "D" and the southwesterly prolongation thereof, South  $36^{\circ}44'24''$  West 689.32 feet to the intersection with the southwesterly line of said Block "D."

(v) Thence along the boundary of said Block "D" as follows: North  $53^{\circ}36'36''$  West 91.36 feet (North  $53^{\circ}50'00''$  West 86.60 feet per Grant Deed received September 24, 1990, at File/Page 1990-0618840 O.R.) to an angle point therein.

(vi) Thence North  $01^{\circ}21'38''$  East 1,548.52 feet to an intersection with the southerly line of said West Point Loma Boulevard.

(vii) Thence along said southerly line as follows: North  $85^{\circ}28'55''$  East 664.61 feet to the westerly terminus of a curve therein having a radius of 1,950.00 feet, concave northerly, as shown on said map no. 3798.

(viii) Thence easterly along the arc of said curve through a central angle of  $00^{\circ}23'25''$ , a distance of 13.29 feet (central angle of  $00^{\circ}23'09''$ , a distance of 13.13 feet per Parcel B of Grant Deed received September 24, 1990, at File/Page 1990-0618840 O.R.) to the point of beginning.

(B) Excepting therefrom that portion of the above-described parcel lying southerly and westerly of the following described line:

(i) Beginning at point "A"; as described above; thence South  $85^{\circ}27'53''$  West 606.98 feet.

(ii) Thence North  $04^{\circ}33'07''$  West 433.35 feet to the point of terminus being on the southerly line of West Point Loma Boulevard.

(C) The above-described parcel contains 5.9968 acres.

(D) All bearings are based upon California Coordinate System of 1983 (CCS83), Epoch 91.35, Zone 6. All distances are grid distances. The combined factor at "GPS 237" is 1.0000097.

(3) A parcel of land referred to as "Public Trust Parcel 3" in the Land Exchange and Title Settlement Agreement for Mission Bay and described as follows:

(A) That portion of Pueblo Lot 211 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to map thereof made by James Pascoe in 1870, a copy of which said map was filed in the Office of the County Recorder of San Diego County, and is known as Miscellaneous Map No. 36, and a portion of Block "D" of Loma Alta No. 2, according to map thereof no. 1082, being filed in the Office of the County Recorder of San Diego County, and being more particularly described as follows:

(i) Commencing at the City of San Diego Horizontal Control Station GPS 237, having a coordinate value of North 1,855,965.87 feet, East 6,263,386.69 feet based on the North American Datum of 1983 (NAD 83, Epoch 1991.35), as shown on Record of Survey No. 14492, filed in the office of the County Recorder of above said San Diego County on March 31, 1994, said station bears North  $46^{\circ}13'14''$  East 5,554.04 feet from City of San Diego Horizontal Control Station GPS 214, having a coordinate value of North 1,852,123.11 feet, East 6,259,376.63 feet as shown on above said Record of Survey No. 14492, thence South  $65^{\circ}48'22''$  West 2,304.58 feet to the intersection of the westerly line of Loma Palisades Unit No. 3, according to map thereof no. 3798, filed in the Office of the County Recorder of San Diego County, February 5, 1958, with the southerly line of West Point Loma Boulevard as said intersection is shown on said map no. 3798, said intersection being the point of beginning.

(ii) Thence along the westerly and northwesterly boundary of said map no. 3798 as follows: South  $05^{\circ}37'27''$  East 433.29 feet to a point hereinafter referred to as point "A."

(iii) Thence continuing along the westerly and northwesterly boundary of said map no. 3798, South  $05^{\circ}37'27''$  East 276.60 feet and South  $36^{\circ}44'24''$

West 495.24 feet to an angle point therein; being also a point in the southeasterly line of said Block “D” of said Loma Alta No. 2.

(iv) Thence along the southeasterly line of said Block “D” and the southwesterly prolongation thereof, South 36°44’24” West 689.32 feet to the intersection with the southwesterly line of said Block “D.”

(v) Thence along the boundary of said Block “D” as follows: North 53°36’36” West 91.36 feet (North 53°50’00” West 86.60 feet per Grant Deed received September 24, 1990, at File/Page 199.0-0618840 O.R.) to an angle point therein.

(vi) Thence North 01°21’38” East 1,548.52 feet to an intersection with the southerly line of said West Point Loma Boulevard.

(vii) Thence along said southerly line as follows: North 85°28’55” East 664.61 feet to the westerly terminus of a curve therein having a radius of 1,950.00 feet, concave northerly, as shown on said map no. 3798.

(viii) Thence easterly along the arc of said curve through a central angle of 00°23’25”, a distance of 13.29 feet (central angle of 00°12’08”, a distance of 13.13 feet per Parcel A of Grant Deed received September 24, 1990, at File/Page 199.0-0618840 O.R.) to the point of beginning.

(B) Excepting therefrom that portion of the above-described parcel lying northerly and easterly of the following described line:

(i) Beginning at point “A”; as described above; thence South 85°27’53” West 606.98 feet.

(ii) Thence North 04°33’07” West 433.35 feet to the point of terminus being on the southerly line of West Point Loma Boulevard.

(C) The above-described parcel contains 14.2881 acres.

(D) All bearings are based upon California Coordinate System of 1983 (CCS83), Epoch 91.35, Zone 6. All distances are grid distances. The combined factor at “GPS 237” is 1.0000097.

(b) The City of San Diego shall hold these lands in trust for the same purposes and subject to all the conditions, restrictions, and requirements of, *inter alia*, Chapter 142 of the Statutes of 1945, as amended by Chapter 1455 of the Statutes of 1955, and as it may be further amended from time to time.

(c) On or before January 1, 2024, the City of San Diego shall submit to the State Lands Commission a trust lands use plan describing any proposed development, preservation, or other use of the trust lands. The City of San Diego shall thereafter submit to the State Lands Commission for its approval any proposed changes to, amendments to, or extensions of the trust lands use plan.

(d) The interim trust lease covering these lands between the State Lands Commission and the City of San Diego shall be terminated on January 1, 2020.

SEC. 5. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances applicable only to the lands described in Section 4 of this act.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.