

Senate Bill No. 1962

CHAPTER 518

An act to amend Sections 11005 and 15853 of the Government Code, and to add Sections 31402.1, 31402.2, and 31402.3 to the Public Resources Code, relating to coastal access.

[Approved by Governor September 12, 2002. Filed with Secretary of State September 13, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1962, Polanco. State coastal conservation: coastal access.

(1) Existing law requires the State Coastal Conservancy to implement and administer various coastal protection programs and projects, including a system of public accessways to and along the state's coastline. Existing law authorizes the conservancy to acquire, develop, and maintain areas for public access to significant coast resources and generally authorizes the conservancy to award grants to public agencies and nonprofit organizations for the purpose of acquiring land for public accessway purposes along the coast.

This bill would require the conservancy to accept any outstanding offer to dedicate a public accessway that has not been accepted by another public agency or nonprofit organization within 90 days of its expiration date. The bill would additionally require the conservancy to open at least 3 public accessways each year either directly or by awarding grants to public agencies or nonprofit agencies for that purpose. The bill would prohibit the use of moneys appropriated from the General Fund for those purposes.

This bill would additionally authorize the conservancy to transfer public access easements or other less-than-fee interests in property to a public agency or nonprofit organization for development, management, or public use, and would authorize the conservancy to enter into agreements with those entities for those same purposes.

(2) With certain exceptions, existing law generally requires the approval of the Director of Finance before the state may accept a gift or dedication of personal or real property. Existing law further requires that all contracts related to acquisition of real property by the state be reviewed and approved by the Director of General Services.

This bill would exclude from the above requirement offers to dedicate public accessways made to the conservancy pursuant to the California Coastal Act.

(3) Existing law requires that all real property and interests in real property to be acquired by or for any state agency, with specified exceptions, be acquired by the State Public Works Board.

This bill would exclude from the above requirement offers to dedicate public accessways made to the conservancy pursuant to the California Coastal Act.

(4) The bill would require the Executive Director of the California Coastal Commission to determine that specified requirements are met before an offer to dedicate an interest in real property may be transferred to a nonprofit organization. The bill would additionally provide that the conservancy shall retain a power of entry with the option to reclaim or assign the interest under specified circumstances.

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

SECTION 1. Section 11005 of the Government Code is amended to read:

11005. (a) Unless the Legislature specifically provides that approval is not required, every gift or dedication to the state of personal property, or every gift to the state of real property in fee or in any lesser estate or interest, shall be approved by the Director of Finance, and every contract for the acquisition or hiring of real property in fee or in any lesser estate or interest, entered into by or on behalf of the state, shall be approved by the Director of General Services. Any contract entered into in violation of this section is void. This section applies to any state agency that, by general or specific statute, is expressly or impliedly authorized to enter into transactions referred to in this section.

(b) This section does not apply (1) to unconditional gifts of money, (2) to the acquisition or hiring by the Department of Transportation of real property in fee or in any lesser estate or interest for highway purposes, but does apply to the hiring by that department of office space in any office building, (3) to contracts entered into under the authority of Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, (4) to the receipt of donated, unencumbered personal property from private sources received in conjunction with the administration of the Federal Surplus Personal Property Program by the Department of General Services, (5) to the receipt of gifts of personal property in the form of interpretive or historical objects, each valued at fifteen thousand dollars (\$15,000) or less, by the Department of Parks and Recreation, or (6) the acceptance by the State Coastal Conservancy of offers to dedicate public accessways made pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code.

SEC. 2. Section 15853 of the Government Code is amended to read:



15853. (a) The board may select and acquire, in the name of and on behalf of the state, with the consent of the state agency concerned, the fee or any lesser right or interest in any real property necessary for any state purpose or function.

(b) If moneys are appropriated by the Budget Act for any fiscal year or by any other act for the acquisition of land or other real property, either (1) subject to this part or (2) for any state agency for whom property is acquired by the board, the moneys and acquisitions are subject to this part and the moneys shall be expended in accordance with this part, notwithstanding any other provisions of law.

(c) Notwithstanding any other provisions of law, all land and other real property to be acquired by or for any state agency, other than the Department of Transportation, the Department of Water Resources, the State Reclamation Board, the Department of Fish and Game, the Wildlife Conservation Board, the Public Employees' Retirement System, the State Teachers' Retirement System, the Department of Housing and Community Development, the State Lands Commission, except for property to be acquired for the State Lands Commission pursuant to an appropriation from the General Fund, and the State Coastal Conservancy with respect to acceptance of offers to dedicate public accessways made pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code, shall be acquired by the State Public Works Board in accordance with this part.

(d) (1) Notwithstanding subdivision (a), the board shall acquire, on behalf of and for the Department of Parks and Recreation, in accordance with this part, any interests in real property, including options to purchase, which have been appraised, selected, and settled through purchase negotiations by the Department of Parks and Recreation pursuant to subdivision (b) of Section 5006 of the Public Resources Code. Out of moneys appropriated for the acquisition of options to purchase, no more than ten thousand dollars (\$10,000) may be expended for the acquisition of any single option unless otherwise provided by the Legislature.

(2) Notwithstanding Section 15854, purchase negotiations for interests in real property for the state park system pursuant to subdivision (d) of Section 5006 of the Public Resources Code shall be initiated within six months of the effective date of the act that appropriates funds for the acquisition. Purchase negotiations on all projects not proposed pursuant to subdivision (d) of Section 5006 of the Public Resources Code shall be initiated within 12 months of the effective date of the act appropriating funds for the acquisition. Either title shall be conveyed or a written agreement to transfer title shall be executed within the appropriate authorization period unless the



Department of Parks and Recreation formally abandons the acquisition prior to the conclusion of the appropriate authorization period. For the purposes of this section, in order for the Department of Parks and Recreation to “formally abandon” an acquisition, it shall transmit written notification to the board of its intent not to proceed with the acquisition.

(3) The board, at any time during the periods specified in paragraph (2), may commence condemnation proceedings if it finds it to be appropriate. However, if, during the appropriate authorization period, title is not conveyed or a written agreement to transfer title is not signed, the acquisition has not been formally abandoned, or condemnation proceedings have not been commenced, the Department of Parks and Recreation shall notify, by letter, the chair of the committee in each house of the Legislature that considers appropriations, the Chair of the Joint Legislative Budget Committee, and the Members of the Legislature within whose district any part of the land or other real property is located of the status of the acquisition. For the purpose of this paragraph, condemnation proceedings shall be deemed to be commenced as of the date the board authorizes acquisition by condemnation.

(4) The board may schedule special meetings as are necessary to expedite the acquisition of options to purchase real property for the state park system.

(e) The board may acquire furnishings that the owner thereof agrees to sell and that are contained within improvements acquired by the board. Cost of acquisition of furnishings shall be charged to the appropriation available for acquisition of the real property.

SEC. 3. Section 31402.1 is added to the Public Resources Code, to read:

31402.1. (a) It is the intent of the Legislature to provide for timely acceptance of offers to dedicate interests in property, recorded pursuant to Division 20 (commencing with Section 30000) and needed to provide public access to and along the ocean shoreline.

(b) The Legislature finds and declares all of the following:

(1) In order to prevent the potential loss of public accessways to and along the state’s coastline, it is in the best interest of the state to accept all offers to dedicate real property that protect open space or have the potential to provide access to public tidelands, including any beach, shoreline, or view area, or that provide a connection to other easements or public properties providing this access.

(2) Offers to dedicate interests in property that are required and recorded pursuant to Division 20 (commencing with Section 30000) provide mitigation necessary for approved development to occur



consistent with the policies and objectives of that division and are not gifts to the state or acquisitions of property interests within the meaning of Section 31105.

SEC. 4. Section 31402.2 is added to the Public Resources Code, to read:

31402.2. The conservancy shall accept any outstanding offer to dedicate a public accessway that has not been accepted by another public agency or nonprofit organization within 90 days of its expiration date.

SEC. 5. Section 31402.3 is added to the Public Resources Code, to read:

31402.3. (a) The conservancy shall open at least three public accessways each year either directly or by awarding grants to public agencies or nonprofit organizations.

(b) The conservancy may transfer public access easements or other less-than-fee interests in property to any appropriate public agency or nonprofit organization for development, management, or public use, or may enter into agreements with public agencies and nonprofit organizations for the development, management, or public use of the accessway.

(c) No public accessway accepted pursuant to Section 31402.2 shall be developed, improved, or formally opened for public use until its transfer, development, or public use has been authorized by the conservancy.

(d) The conservancy may not use moneys appropriated from the General Fund for the purposes of this section.

SEC. 6. (a) Before approving the conveyance by the conservancy to a nonprofit organization of an offer to dedicate an interest in real property under Division 20 (commencing with Section 30000) of the Public Resources Code, the Executive Director of the California Coastal Commission shall determine the following:

(1) The nonprofit organization qualifies and is in good standing as a nonprofit organization under Section 501(c)(3) of the United States Internal Revenue Code.

(2) The nonprofit organization has filed a Form 990 with the Internal Revenue Service.

(b) The nonprofit organization shall submit to the California Coastal Commission a management plan that describes the nonprofit organization's planned management and operation of the interest.

(c) The conservancy shall retain a power of entry, with the option to reclaim or assign the interest, if the commission determines that the nonprofit organization is not managing or operating the interest



consistent with the management plan developed pursuant to subdivision (b).

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