

AMENDED IN SENATE JULY 1, 2013
AMENDED IN ASSEMBLY APRIL 22, 2013
AMENDED IN ASSEMBLY MARCH 11, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 691

Introduced by Assembly Member Muratsuchi

February 21, 2013

An act to add Section 6311.5 to the Public Resources Code, relating to state lands.

LEGISLATIVE COUNSEL'S DIGEST

AB 691, as amended, Muratsuchi. State lands: granted trust lands: sea level rise.

Existing law vests with the State Lands Commission control over specified state lands, including tidelands and submerged lands. Existing law grants to various local entities the right, title, and interest of the state in and to certain tidelands and submerged lands in trust generally for purposes of commerce, navigation, and fisheries, and for other public trust purposes.

This bill would provide that addressing the impacts from sea level rise for all of its legislatively granted public trust lands shall be among the management priorities of a local trustee, as defined. The bill would require a local trustee whose gross public trust revenues average over \$250,000 annually between January 1, 2009, and January 1, 2014, to prepare and submit to the commission, no later than July 1, 2019, except as provided, an assessment of how it proposes to address sea level rise. The bill would permit, but not require, a local trustee whose gross public trust revenues are \$250,000 or less to prepare and submit to the

commission an assessment. The bill would require a local trustee to consider and use relevant information from specified reports on sea level rise in preparing the assessment and would permit a trustee that has already completed an assessment on the impacts of sea level rise to submit that assessment to the commission. The bill would require that the commission make those assessments available to the public on its Internet Web site, and send electronic copies to certain other public entities.

By adding to the duties of local agencies that are local trustees of granted public trust lands, this bill would impose a state-mandated local program.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Upon admission to the United States, and as incident of its
- 4 sovereignty, the State of California received title to the tidelands,
- 5 submerged lands, and beds of navigable waterways within its
- 6 borders to be held subject to the public trust doctrine for statewide
- 7 public purposes, including commerce, navigation, fisheries,
- 8 preservation of lands in their natural state, open space, wildlife
- 9 habitat, water-oriented recreation, and other recognized public
- 10 trust uses.
- 11 (b) The state has made grants of public trust lands to over 80
- 12 local public entities, each of which manages the state’s public trust
- 13 lands as trustee pursuant to the common law public trust doctrine,
- 14 statutory grants, the California Constitution, and other laws
- 15 governing the trust and the trustee’s fiduciary responsibilities.
- 16 (c) A local trustee of granted public trust lands is charged with
- 17 managing the state’s granted public trust lands on behalf of the
- 18 state for the benefit of all the people of California.

1 (d) As part of its fiduciary duty, a local trustee of granted public
2 trust lands is required to take reasonable steps under the
3 circumstances to take and keep control of and preserve the trust
4 property.

5 (e) The effects of climate change and sea level rise will have
6 enormous implications for the state's economic and social future,
7 and have the potential to have a wide range of impacts to critical
8 infrastructure, such as schools, roads, hospitals, emergency
9 facilities, wastewater treatment plants, airports, ports, and energy
10 facilities.

11 (f) Coastal counties in California are home to approximately
12 32,000,000 people.

13 (g) The coastal economy contributes more than \$50 billion
14 annually to the State of California.

15 (h) Port activities in California generate an estimated \$7 billion
16 in state and local tax revenues annually and employ more than
17 500,000 people in California. Nationwide more than two million
18 jobs are connected to California ports.

19 (i) In 2007, more than 40 percent of the total containerized cargo
20 entering the United States arrived at California ports, and almost
21 30 percent of the nation's exports left from California ports.

22 (j) In 2002, cargo operations ~~shutdown~~ *shut down* at west coast
23 ports for 10 days, and the estimated loss to the national economy
24 was \$1 billion per day.

25 (k) Research funded by the state has shown that a 55-inch sea
26 level rise, with a 100-year storm event along the California coast,
27 places approximately 480,000 people (based on the population in
28 2009) and nearly \$100 billion of property at risk.

29 (l) Coastal habitats, including wetlands and beaches, provide
30 important ecological, recreational, and scenic functions and values,
31 which are threatened by sea level rise, unless actions are taken to
32 effectively manage these habitats and adjacent lands.

33 (m) Many state entities, such as the Governor's Office of
34 Planning and Research, the Strategic Growth Council, the Ocean
35 Protection Council, the San Francisco Bay Conservation and
36 Development Commission, the California Coastal Commission,
37 and the State Lands Commission have supported efforts to develop
38 tools and to increase accessibility to existing state data, and to
39 provide additional data and tools to help local, regional, and state
40 agencies make informed decisions about sea level rise.

1 (n) The use of revenues received from trust lands and trust assets
2 by a local trustee of granted public trust lands is limited by the
3 statutory grant, the public trust doctrine, and other laws governing
4 the trust. An evaluation of the impacts of sea level rise on granted
5 public trust lands is directly related to the operation and
6 management of these resources managed on behalf of the state by
7 local trustees and is, therefore, a purpose consistent with the public
8 trust for commerce, navigation, and fisheries, and the applicable
9 statutory grants.

10 (o) Because a local trustee of granted public trust lands holds
11 and manages its public trust property, including the lands and
12 revenue derived from that property, as a state asset for the benefit
13 of the people of California and cannot use the trust corpus for
14 general municipal purposes or other purposes not consistent with
15 the public trust doctrine and its statutory grant, and because the
16 State Lands Commission is provided with a mechanism in this act
17 to exempt a local trustee that does not have sufficient state funds,
18 either through the trust or other existing funding mechanisms, to
19 pay for the cost of assessing the impacts of sea level rise, Section
20 6311.5 of the Public Resources Code, as added by this act, will
21 not impose costs on local governments.

22 SEC. 2. Section 6311.5 is added to the Public Resources Code,
23 to read:

24 6311.5. (a) For the purposes of this section, the following
25 terms shall have the following meanings:

26 (1) “Local trustee” means a local trustee of granted public trust
27 lands that is a county, city, or district, including water, sanitary,
28 regional park, port, or harbor district, or any other local political
29 or corporate subdivision that has been granted public trust lands
30 through a legislative grant.

31 (2) “Gross public trust revenues” means those gross revenues
32 that are subject to subdivision (c) of Section 6306.

33 (b) Addressing the impacts from sea level rise for all of its
34 legislatively granted public trust lands pursuant to this section shall
35 be among the management priorities of a local trustee. The
36 geographic scope of a local trustee’s assessment of the impacts
37 from sea level rise is not required to go beyond the boundaries of
38 the local trustee’s granted public trust lands.

39 (c) A local trustee, whose gross public trust revenues average
40 over two hundred fifty thousand dollars (\$250,000) annually

1 between January 1, 2009, ~~until~~ and January 1, 2014, shall prepare
2 and submit to the commission, no later than July 1, 2019, an
3 assessment of how the local trustee proposes to address sea level
4 rise. A local trustee whose gross public trust revenues are two
5 hundred fifty thousand dollars (\$250,000) or less may, but is not
6 required to, prepare and submit to the commission an assessment.

7 (d) For the purposes of subdivision (c), a local trustee shall
8 consider and use relevant information from the 2009 California
9 Climate Adaptation Strategy prepared by the Natural Resources
10 Agency, the Report on Sea Level Rise Preparedness prepared by
11 the State Lands Commission, the Sea-Level Rise for the Coasts of
12 California, Oregon, and Washington: Past, Present, and Future, a
13 report prepared by the National Academy of Sciences, the
14 Resolution of the California Ocean Protection Council on
15 Sea-Level Rise, the State of California Sea-Level Rise Interim
16 Guidance Document, and any subsequent updates to those reports
17 that become available six months prior to the date the assessment
18 is required to be submitted to the commission. A local trustee's
19 assessment prepared pursuant to subdivision (c) shall include all
20 of the following:

21 (1) An assessment of the impact of a range of sea level rise on
22 granted public trust lands, as described in the Resolution of the
23 California Ocean Protection Council on Sea-level Rise and the
24 latest version of the State of California Sea-Level Rise Interim
25 Guidance Document.

26 (2) Maps showing the areas that may be affected by sea level
27 rise in the years 2030, 2050, and 2100. These maps shall include
28 the potential impacts of 100-year storm events. A local trustee may
29 rely on appropriate maps generated by other entities.

30 (3) An estimate of the financial cost of the impact of sea level
31 rise on granted public trust lands. The estimate shall consider, but
32 is not limited to, the potential cost of repair of damage to and the
33 value of lost use of improvements and land, and the anticipated
34 cost to prevent or mitigate potential damage.

35 (4) A description of how the local trustee proposes to protect
36 and preserve natural and manmade resources and facilities located,
37 or proposed to be located, on trust lands and operated in connection
38 with the use of the trust lands.

1 (e) In addressing the impacts from sea level rise, a local trustee
2 shall collaborate with its lessees, appropriate local, state, and
3 federal agencies, and other users of the granted public trust lands.

4 (f) (1) A local trustee that prepares an assessment pursuant to
5 subdivision (c) shall submit a copy to the commission in hard copy
6 and electronic form. The commission shall make the assessment
7 available to the public on its Internet Web-Site ~~Site~~ *site* and, for
8 informational purposes, shall send an electronic copy to each
9 member of the Climate Action Team, the climate change program
10 manager in the office of the Secretary for Environmental
11 Protection, and the Governor's Office of Planning and Research.

12 (2) For purposes of compliance with this subdivision, if a trustee
13 has already completed an assessment of the impacts of sea level
14 rise that meets the criteria of this section, the trustee may submit
15 that assessment to the commission.

16 (g) The commission shall exempt a local trustee of granted
17 public trust lands from this section if the commission finds either
18 of the following:

19 (1) The local trustee's public trust lands are not subject to sea
20 level rise by 2100, based upon the highest projections in the most
21 recent version of the State of California Sea-Level Rise Guidance
22 Document.

23 (2) The cost to provide an assessment of how the local trustee
24 proposes to address the impacts of sea level rise substantially
25 outweighs the benefit the action would have in preventing the
26 potential economic and environmental harms associated with sea
27 level rise on the local trustee's granted public trust lands. *In making*
28 *this determination, the economic benefits of all ecological services*
29 *provided by the existing natural resources in the local trustee's*
30 *granted public trust lands shall be considered.*

31 (h) The commission shall exempt a local trustee from this section
32 if the revenues derived from its granted public trust lands and
33 assets subject to subdivision (c) of Section 6306 or funding made
34 available to it from other discretionary sources is not sufficient to
35 pay for the cost of assessing the impacts of sea level rise on granted
36 public trust land and providing this information to the commission.

37 (i) The commission shall consider a local trustee's request for
38 an exemption pursuant to subdivision (g) or (h) at a properly
39 noticed commission meeting if the request is made before
40 November 1, 2018.

1 (j) Other than submission of the assessment required by
2 subdivision (c), this section does not require a local trustee to
3 implement any specific actions to address sea level rise pursuant
4 to this section.

5 (k) Nothing in this section shall be construed to conflict with
6 any federal regulations governing sea level rise.

7 SEC. 3. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the costs incurred by a local agency to pay for the program ~~of~~ *or*
10 level of service mandated by this act, within the meaning of Section
11 17556 of the Government Code, will be paid solely from the
12 revenues derived from the public trust lands and assets that are
13 granted to that local agency by the state.