

ASSEMBLY BILL

No. 2607

Introduced by Assembly Member Ting

February 18, 2022

An act relating to tidelands and submerged lands, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2607, as introduced, Ting. Tidelands and submerged lands: City and County of San Francisco: Port of San Francisco.

Existing law, the Burton Act, grants to the City and County of San Francisco the right, title, and interest of the State of California in and to certain tidelands and submerged lands in trust for certain purposes. Under existing law, the Burton Act and the Burton Act transfer agreement, the interest of the state in and to the Harbor of San Francisco was transferred in trust to the City and County of San Francisco. The State Lands Commission has jurisdiction over tidelands and submerged lands of the state.

This bill would, subject to specified findings made by the commission at a public meeting, require the commission to accept any and all title and interest of the Port of San Francisco, as trustee pursuant to the Burton Act, in specified property, and thereafter would require the commission to convey the property by patent to the city, free of the public trust and the Burton Act Trust and any trust requirement or condition that the property be used for street or railway purposes, all of the right, title, and interest held by the State of California by virtue of its sovereignty in the property, except as provided. The bill would also make various legislative findings and declarations relating to the transfer of the property.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. As used in this act:

2 (a) “Burton Act” means Chapter 1333 of the Statutes of 1968,
3 as amended.

4 (b) “Burton Act Trust” means the statutory trust imposed by
5 the Burton Act, by which the state conveyed to the City and County
6 of San Francisco, in trust and subject to certain terms, conditions,
7 and reservations, the state’s interest in certain tidelands, including
8 filled lands, and lands dedicated or acquired by the city as assets
9 of the trust.

10 (c) “City” means the City and County of San Francisco.

11 (d) “Harbor Fund” means the separate fund in the treasury of
12 the city established and maintained in accordance with Section
13 B6.406 of the charter of the city and Section 4 of the Burton Act.

14 (e) “Property” means the real property described in Section 3
15 of this act.

16 (f) “Public trust” or “trust” means the common law public trust
17 for commerce, navigation, and fisheries.

18 SEC. 2. (a) The Legislature finds and declares all of the
19 following:

20 (1) Upon its admission to the United States of America on
21 September 9, 1850, the state, by virtue of its sovereignty, received
22 in trust for the purposes of commerce, navigation, and fisheries,
23 all right, title, and interest in ungranted tidelands and beds of
24 navigable waterways within its borders, including the property.

25 (2) Pursuant to Chapter 543 of the Statutes of 1868, the state’s
26 Board of Tide Land Commissioners platted tide and submerged
27 lands in San Francisco Bay into lots and blocks for sale. Chapter
28 543 required the state to reserve streets bordering the lots for public
29 purposes and subject to the public trust. Some of these streets are
30 today city streets used by the public; others were never developed
31 into streets but remain “paper streets” on maps. The property

1 includes portions of Bancroft Avenue and Griffith Street that are
2 paper streets.

3 (3) Chapter 543 also donated a 200-foot-wide right-of-way to
4 the Southern Pacific Railroad Company and the Western Pacific
5 Railroad Company. The right-of-way was not used for railroad
6 purposes and reverted to state ownership, subject to the public
7 trust, pursuant to Chapter 543. The property includes a portion of
8 the right-of-way.

9 (4) In 1969, pursuant to the Burton Act and the Burton Act
10 transfer agreement, the state conveyed certain state tidelands to
11 the city in trust for public trust and Burton Act Trust purposes.
12 The Burton Act Trust requires that the moneys derived from the
13 use of the transferred properties be used solely for the furtherance
14 of the purposes set forth in the Burton Act. The lands transferred
15 by the Burton Act transfer agreement include the property.

16 (5) The city desires to pay fair market value to acquire the
17 property free from the Burton Act Trust and public trust restrictions
18 and obligations and to acquire additional privately-owned lands
19 located adjacent to the property to assemble an approximately
20 seven-acre site on which to construct and operate a fire training
21 facility that will provide necessary training facilities for effective
22 firefighting, including live-fire, rescue, classroom, and equipment
23 training for firefighters, emergency responders, partner fire
24 agencies, and citizen groups.

25 (6) The primary fire training facility of the San Francisco Fire
26 Department (“SFFD”) is located on Treasure Island, with an
27 ancillary training tower located at 19th and Folsom Streets. A new
28 fire training facility is necessary to replace the existing facility on
29 Treasure Island, which will be demolished in 2025 due to
30 development of the island. SFFD needs approximately 7.5 acres
31 of land upon which to build the new training facility.

32 (7) SFFD educates and trains new fire fighters, emergency
33 medical technicians, and paramedics, and provides refresher
34 training and recertification to veteran fire fighters, emergency
35 medical technicians, and paramedics. Approximately 1,700
36 firefighters use the fire training facilities each year, depending on
37 their qualifications and the requirements for their position. At a
38 minimum, each SFFD firefighter has about 200 hours of training
39 per year.

1 (8) In addition to training SFFD personnel, the new fire training
2 facility will function as a regional training center for Northern
3 California’s Fire, Emergency Medical Services, Incident Command
4 & Rescue training needs. The current facility is one of only four
5 sites in northern California approved to host Firefighter 1 Academy,
6 Emergency Vehicle Operations, Confined Space Rescue
7 Technician, Rescue Systems 1, Rescue Systems 2, and Rope
8 Rescue Technician courses. The new facility is anticipated to have
9 the same and better training and certification functions. The new
10 fire training facility will provide regional and statewide benefits
11 by improving the readiness and capabilities of the SFFD as well
12 as other local and regional fire organizations to provide mutual
13 aid in an environment of lengthening fire seasons with increased
14 numbers and severity of fires that regularly require mutual aid.

15 (9) The property consists of approximately 2.6 acres of
16 underutilized land that is cut off from access to the San Francisco
17 Bay, and is composed of two streets, known as paper streets, and
18 a trapezoidal, railroad remainder parcel under Port of San Francisco
19 jurisdiction pursuant to the Burton Act. The city negotiated the
20 purchase and sale of 4.9 acres of land adjacent to the property with
21 a private landowner, which the city plans to acquire in order to
22 assemble a site suitable for the new training facility.

23 (10) The voters of the city have approved general obligation
24 bonding authority in 2010, 2014, and 2020 to construct capital
25 improvements for earthquake safety and emergency response
26 within the city, and the city intends to use a portion of those funds
27 to construct the new training facility.

28 (11) The property has ceased to be useful for the promotion of
29 the public trust and the Burton Act Trust. The property was filled
30 and reclaimed as part of a highly beneficial plan of harbor
31 development, has ceased to be tidelands, is cut off from the water,
32 constitutes a relatively small portion of the tidelands granted to
33 the city, is not currently being used, and is not anticipated in the
34 foreseeable future to be used, for public trust or Burton Act Trust
35 purposes. It is the intent of the Legislature that, conditioned on the
36 approval by the State Lands Commission and the additional
37 provisions of this Act, the property be freed of the use requirements
38 of the public trust, the Burton Act Trust, and the Burton Act
39 transfer agreement.

1 (b) The Legislature hereby finds in accordance with Section 3
2 of Article X of the California Constitution that the interest of the
3 state in the paper street portion of the property was reserved to the
4 state solely for street purposes, and that the paper street portion of
5 the property, described in subdivisions (b) and (c) of Section 3 of
6 this act, is no longer used or necessary for navigation purposes.

7 SEC. 3. Subject to the findings and terms described in Section
8 4 of this act, the State Lands Commission shall accept any and all
9 title and interest of the Port of San Francisco, as trustee pursuant
10 to the Burton Act, in the property, and thereafter shall convey the
11 property by patent to the city, free of the public trust and the Burton
12 Act Trust and any trust requirement or condition that the property
13 be used for street or railway purposes, all of the right, title, and
14 interest held by the State of California by virtue of its sovereignty
15 in the property, but reserving all minerals and all mineral rights in
16 the lands of every kind and character now known to exist or
17 hereafter discovered, including, but not limited to, oil and gas and
18 rights thereto, together with the sole, exclusive, and perpetual right
19 to explore for, remove, and dispose of those minerals by any means
20 or methods suitable to the state or to its successors and assignees,
21 except that, notwithstanding the grant or Section 6401 of the Public
22 Resources Code, any reservation shall not include the right of the
23 state or its successors or assignees in connection with any mineral
24 exploration, removal, or disposal activity, to enter upon, use, or
25 damage the surface of the lands or interfere with the use of the
26 surface by the city or by the city's successors or assigns or conduct
27 mining activities of any nature whatsoever above a plane located
28 500 feet below the surface of the lands without the prior written
29 permission of the city or the city's successors or assigns, situated
30 in the City of San Francisco, County of San Francisco, State of
31 California, described as follows:

32 (a) The Railway Remnant Parcel: All that portion of Block No.
33 488 of the Salt Marsh and Tide Lands that lie within the bounds
34 of the right of way for the Southern Pacific and Western Pacific
35 Railroad Companies, as fixed and designated by the Board of Tide
36 Land Commissioners of the State of California and as reserved
37 pursuant to Chapter 543 of the Statutes of 1868, and as shown on
38 Sheet 13 of the map titled "Historic San Francisco Maps" recorded
39 January 31, 1975, in the Office of the Recorder of San Francisco,

1 State of California in Book W of Maps, Pages 40 to 54, inclusive.
2 Assessors Parcel Number: Lot 1, Block 4852.

3 (b) Bancroft Avenue Paper Street: All that portion of Bancroft
4 Avenue, lying between the southeasterly line of Hawes Street and
5 the northwesterly line of Griffith Street and lying easterly of the
6 ordinary high tide line as shown on “Map of Lands Transferred in
7 Trust to the City and County of San Francisco,” recorded on May
8 14, 1976, in Book W of Record of Surveys, pages 66 to 72,
9 inclusive, San Francisco County Records.

10 (c) Griffith Avenue Paper Street: All that portion of Griffith
11 Avenue, lying southwesterly of the southwesterly line of Armstrong
12 Avenue and northeasterly of the northeasterly line of Carroll
13 Avenue and lying northerly of the ordinary high tide line as shown
14 on “Map of Land Transferred in Trust to the City and County of
15 San Francisco,” recorded on May 14, 1976, in Book W of Record
16 of Surveys, at pages 66 to 72, inclusive, San Francisco County
17 Records.

18 SEC. 4. (a) Before completing the conveyances described in
19 Section 3 of this act, the State Lands Commission shall find at a
20 public meeting all of the following:

21 (1) The property has been filled and reclaimed as part of a highly
22 beneficial plan of harbor development.

23 (2) The property is cut off from access to the waters of San
24 Francisco Bay.

25 (3) The property is a relatively small portion of the tidelands
26 granted pursuant to the Burton Act.

27 (4) The property is not used, suitable, or required for navigation
28 or any other public trust or Burton Act purpose.

29 (5) The city’s deposit pursuant to paragraph (1) of subdivision
30 (b) is equal to or greater than the fair market value of the property.

31 (6) Transfer of the property and its removal from the public
32 trust is in the best interests of the state.

33 (b) In exchange for the transfer of the property and its removal
34 from the public trust, the city shall do both of the following:

35 (1) Make a deposit into the Harbor Fund, which shall be held
36 in trust and used for Burton Act purposes.

37 (2) Use the property, together with adjacent lands, to construct
38 and operate a fire training facility, public facility addressing
39 earthquake safety or emergency response, or other public purpose
40 for a minimum of 30 years.

1 SEC. 5. The Legislature finds and declares that unique
2 circumstances exist at the San Francisco waterfront and that
3 therefore this act sets no precedent for any other location or project
4 in the state.

5 SEC. 6. The Legislature finds and declares that a special statute
6 is necessary and that a general statute cannot be made applicable
7 within the meaning of Section 16 of Article IV of the California
8 Constitution because of the unique circumstances applicable only
9 to the lands described in this act.

10 SEC. 7. This act is an urgency statute necessary for the
11 immediate preservation of the public peace, health, or safety within
12 the meaning of Article IV of the California Constitution and shall
13 go into immediate effect. The facts constituting the necessity are:

14 The City and County of San Francisco requires a site to construct
15 and operate a fire training facility to replace an existing facility
16 that will no longer be available in 2025. Planning and site
17 acquisition must proceed before that time to meet development
18 timelines. In order to immediately authorize the terms and
19 conditions under which a railroad remnant parcel and two adjacent
20 paper streets may be made available to the city and conveyed under
21 Section 3 of Article X of the California Constitution, so that the
22 city may proceed with its plans for the fire training facility, it is
23 necessary that this act take effect immediately.