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## CHAPTER 1067

An act to repeal Chapter 1939 of the Statutes of 1955, Chapter 1430 of the Statutes of 1957, and Chapter 1586 of the Statutes of 1963, relating to tidelands and submerged lands and to convey certain tidelands and submerged lands to the City of Antioch.

[Approved by Governor September 29, 1989 Filed with  
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*The people of the State of California do enact as follows:*

SECTION 1. (a) There is hereby granted in trust to the City of Antioch, hereafter referred to as the "trustee" all of 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 in the County of Contra Costa and described in Section 13, hereafter referred to as "trust lands." The lands shall be held by the trustee and its successors in trust for the benefit of all the people of the state for purposes of commerce, navigation, and fisheries, and for other public trust purposes, including, but not limited to, preservation of the lands in their natural state for scientific study, open space, wildlife habitat, and recreational and visitor-oriented uses, as more particularly provided in this act.

(b) This trust grant is subject to the following express conditions:

(1) The use of the trust lands shall be in conformity with a trust lands use plan, as defined in Section 2.

(2) The trustee or its successors shall not at any time grant, convey, give, or otherwise alienate the trust lands, or any part thereof, to any person, firm, entity, or corporation for any purposes whatsoever. The trustee may lease the trust lands, or any part thereof, for limited periods, not exceeding 50 years, for purposes consistent with the trust upon which those lands are held. The trustee may collect and retain rents and other trust revenues from those leases, under rules and regulations adopted in accordance with Section 2 and consistent with Section 5.

(3) In the management, conduct, operation, and control of the trust lands, or any improvement, betterments, or structures thereon, the trustee or its successors shall make no illegal discrimination in rates, tolls, or charges for any use or service in connection herewith, nor shall the trustee discriminate against or lawfully segregate any person or group of persons on account of sex, race, color, creed, national origin, ancestry, or physical handicap for any use or service in connection herewith.

(4) The state shall have the right to use, without charge, any transportation, landing, or storage improvements, betterments, or structures constructed upon the trust lands for any vessel or other watercraft or railroad owned or operated by or under contract to the state. The state's use of the facilities shall be governed by the trustee's rules and regulations.

(5) There is reserved to the people of the State of California the right to fish in the waters over the trust lands, with the right to convenient access to those waters over the trust lands for that purpose.

(6) There is excepted and reserved to the state all remains or artifacts of archaeological and historical significance and all deposits of minerals, including, but not limited to, all substances specified in Section 6407 of the Public Resources Code, in the trust lands, and the right to prospect for, mine, and remove those deposits from the lands.

(7) The trustee shall not authorize a capital outlay project, lease, or agreement for port facilities, such as marine terminals, pipelines, or other related energy facilities, on the granted lands without first requesting and receiving the approval, in writing, of the commission. Prior to approving any such capital outlay project, lease, or agreement, the commission shall consult with other governmental agencies, and no approval shall be given unless the commission determines that the project is in, and for, the best interest of the people of the state and consistent with applicable provisions of law.

SEC. 2. (a) On or before January 1, 1994, the trustee shall submit to the State Lands Commission, hereafter referred to as the "commission," a trust lands use plan indicating details of intended development, preservation, or other use of the trust lands. The trustee shall thereafter submit to the commission for approval all

changes of, amendments to, or extensions of the trust lands use plan. Any use of the trust lands shall be consistent with the trust lands use plan as approved by the commission.

(b) The commission shall review with reasonable promptness the trust lands use plan submitted by the trustee and any changes or amendments to determine that they are consistent with the public trust and the requirements of this act. Based upon its review, the commission shall either approve or disapprove the plan. If the commission disapproves the plan, the commission shall furnish the trustee with its formal recommendations, and the trustee shall submit a revised plan to the commission within 180 days. If that revised plan is determined by the commission to be inconsistent with the public trust and the requirements of this act, all right, title, and interest of the trustee in and to the trust lands and improvements thereon shall revert to the state.

(c) The trust lands use plan may consist of any plan, program, or other document which includes all of the following:

(1) A general description of the type of uses planned or proposed for the trust lands. The location of these land uses shall be shown on a map or aerial photograph.

(2) The projected statewide benefit to be derived from the planned or proposed uses of the trust lands, including, but not limited to, the financial benefit and the furtherance of those purposes set forth in Section 1.

(3) The proposed method of financing the planned or proposed uses of the trust lands, including estimated capital costs, annual operating costs, and anticipated annual trust revenues.

(4) An estimated timetable for implementation of the trust lands use plan or any phase thereof.

(5) A description of how the trustee proposes to protect and preserve natural and manmade resources in connection with the use of the trust lands.

(d) The governing body of the trustee shall submit to the commission, for its approval, procedures, rules, and regulations to govern the use or development of the trust lands. These rules and regulations shall include, but not be limited to, lease rates, the bases upon which the rates are established, lease terms and conditions, provision for renegotiation of rates and terms and assignments, and other information as may be required by the commission.

(e) All leases or agreements proposed, or entered into, by any trustee after January 1, 1990, shall be consistent with the trust lands use plan submitted by the trustee and approved by the commission.

(f) Upon request, the trustee shall submit to the commission a copy of all leases and agreements entered into, renewed, or renegotiated.

SEC. 3. (a) On or before September 30 of every succeeding fifth year, commencing on September 30, 1991, the trustee shall submit a report of its utilization of the trust lands for each immediately preceding five-calendar-year period ending with June 30 of the

calendar year in which the report is required to be submitted.

(b) The report shall include all of the following:

(1) A general description of the uses to which the trust lands have been placed during the period covered by the report.

(2) A list of the owners and holders of leases or permits granted or issued by the trustee, which list shall specify, as to each owner or holder, all of the following:

(A) The use to which the trust lands have been placed by the owner or holder.

(B) The consideration provided for in each lease or permit, and the consideration actually received by the trustee for the lease or permit granted or issued.

(C) An enumeration of the restrictions which the trustee has placed on the use of the trust lands and each area thereof for the period covered by the report.

SEC. 4. The trustee shall demonstrate good faith in carrying out its trust lands use plan and amending it when necessary in accordance with Section 2. If the commission determines that the trustee has substantially failed to improve, restore, preserve, or maintain the trust lands, as required by the trust lands use plan, in the time period set forth in paragraph (4) of subdivision (c) of Section 2, or has unreasonably delayed adopting that proposal, all right, title, and interest of the trustee in and to the trust lands and improvements thereon shall revert to the state.

SEC. 5. (a) The trustee shall establish and maintain accounting procedures, in accordance with generally accepted accounting principles, providing accurate records of all revenues received from the trust lands and trust assets and of all expenditures of those revenues. If the trustee has several trust grants of adjacent lands and operates the granted lands as a single integrated entity, separation of accounting records for each trust grant is not required. All revenues received from trust lands and trust assets, hereafter referred to as "trust revenues," shall be expended only for those uses and purposes set forth in subdivision (a) of Section 1. The purpose of this requirement is to provide for the segregation of funds derived from the use of the trust lands in order to ensure that they are only expended to enhance the lands in accordance with the trust uses and purposes upon which the trust lands are held.

(b) Trust revenues may be used to acquire appropriate uplands to benefit and enhance the trust with the prior written consent of the commission. Property acquired with these trust revenues shall be considered an asset of the trust and subject to the terms and conditions of this act.

SEC. 6. On or before October 1 of each year, the trustee shall file with the commission a detailed statement of all trust revenues and expenditures relating to its trust lands and trust assets, including obligations incurred but not yet paid, covering the fiscal year preceding submission of the statement. This statement shall be prepared according to generally accepted accounting principles and

may take the form of an annual audit prepared by or for the trustee.

SEC. 7. As to the expenditure of trust revenues for any single capital improvement on the trust lands involving an amount in excess of two hundred fifty thousand dollars (\$250,000) in the aggregate, the trustee shall file with the commission a detailed description of the capital improvement not less than 90 days prior to the time of any disbursement therefor or in connection therewith.

Within 90 days after the time of that filing, the commission shall determine whether the capital improvement is in the statewide interest and benefit and is consistent with the conditions of this act. The commission may request the opinion of the Attorney General on the matter; and, if it does so, a copy of that opinion shall be delivered to the trustee with the notice of its determination. If the commission notifies the trustee that the capital improvement is not authorized, the trustee shall not disburse any trust revenues for, or in connection with, the capital improvement, unless and until it is determined to be authorized by a final order or judgment of a court of competent jurisdiction.

The trustee may bring suit against the state for the purpose of securing such an order or judgment, which suit shall have priority over all other civil matters. Service shall be made upon the executive officer of the commission and the Attorney General, and the Attorney General shall defend the state in that suit. If judgment is given against the state in the suit, no costs may be recovered.

SEC. 8. On June 30, 1992, and at the end of every third fiscal year thereafter, that portion of the trustee's trust revenues in excess of two hundred fifty thousand dollars (\$250,000) remaining after current and accrued operating costs and expenditures directly related to the operation or maintenance of trust activities shall be deemed excess revenues.

However, any funds deposited in a reserve fund for future capital expenditures or any funds used to retire bond issues for the improvement or operation of the granted lands shall not be deemed excess revenue. Any reserve fund for future capital expenditure shall be for projects that are consistent with the trust lands use plan required by Section 2 and have prior commission approval under Section 7 to be deemed nonexcess revenues. Capital improvements of the trust lands made for purposes authorized by this act may be considered as expenditures for the purpose of determining excess revenues.

The excess revenues, as determined pursuant to this section, shall be allocated 85 percent to the Treasurer for deposit in the General Fund in the State Treasury and 15 percent to the trustee for expenditures consistent with this act.

SEC. 9. The commission shall, from time to time, institute a formal inquiry to determine that the terms and conditions of this act, and amendments thereto, have been complied with and that all other applicable provisions of law concerning the trust lands are being complied with in good faith.

SEC. 10. Reimbursement for any and all expenditures of nontrust revenues for management, maintenance, and improvements made to the trust shall be approved by the commission in advance of those expenditures, or the expenditures shall be deemed a gift to the trust.

SEC. 11. Whenever the commission finds that the trustee has violated, or is about to violate, the terms of its trust grant or any other principle of law relating to its obligation under the public trust, the commission shall notify the trustee of the violations.

The trustee shall have 30 days from receipt of that notice of violation to conform to the terms of its grant and the principles and laws under the public trust. If the trustee fails or refuses to so conform, the commission may bring such actions as are necessary to enforce the rights of the state and people pursuant to the public trust. The Attorney General shall represent the state and people in those actions or proceedings. If the judgment is given against the state in the action or proceeding, no costs may be recovered from the state.

SEC. 12. Section 6359 of the Public Resources Code does not apply to this act.

SEC. 13. The lands granted in Section 1 are those tidelands and submerged lands described as follows:

All that certain real property situated in the State of California, County of Contra Costa, City of Antioch, described as follows:

Beginning at the point, where the easterly line of the "Fulton Annexation," Resolution No. 2284-A passed and adopted by the City Council of the City of Antioch May 10, 1965, extended into the San Joaquin River, intersects the Ordinary High Water Mark; thence from the point of beginning, northerly along the extension of that east line into the San Joaquin River to the common boundary line between Contra Costa County and Sacramento County; thence westerly and downstream along that common county boundary line to the intersection of the centerline of New York Slough; thence westerly along that centerline of the slough to a point where the west line of the "U.S. Steel Annexation No. 84-2," Resolution No. 84-134 passed and adopted by the City Council of the City of Antioch June 26, 1984, extended northerly meets the centerline of New York Slough; thence southerly along the west line of U.S. Steel Annexation 84-2 boundary line to a point of intersection with the Ordinary High Water Mark of New York Slough; thence easterly along that Ordinary High Water Mark of New York Slough to the intersection of the Ordinary High Water Mark of the San Joaquin River; thence continuing easterly along the Ordinary High Water Mark of the San Joaquin River to the point of beginning.

SEC. 14. Chapter 1939 of the Statutes of 1955 is repealed.

SEC. 15. Chapter 1430 of the Statutes of 1957 is repealed.

SEC. 16. Chapter 1586 of the Statutes of 1963 is repealed.

SEC. 17. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program

specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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