

CHAPTER 29

An act relating to the tide and submerged lands conveyed in trust to the City of Long Beach and the revenues derived therefrom and in connection therewith providing for fixing and determining the respective rights and interests of the State of California and the City of Long Beach in and to revenue from hydrocarbon substances extracted or derived from tide and submerged lands conveyed in trust to the City of Long Beach as affected by Chapter 915 of the Statutes of 1951; authorizing the Attorney General and the City of Long Beach to enter into stipulations with respect thereto; clarifying the uses of such tideland hydrocarbon revenues as were unaffected by said act of 1951; providing for State Lands Commission action in connection with said lands; and declaring the urgency thereof, to take effect immediately.

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In effect
immediately

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

SECTION 1. As used in this act:

(a) "Long Beach tidelands" means those certain tide and submerged lands heretofore conveyed to the City of Long Beach upon certain trusts and conditions by Chapter 676,

Statutes of 1911, Chapter 102, Statutes of 1925 and Chapter 158, Statutes of 1935.

(b) "Oil revenue" means the net proceeds received by the City of Long Beach from the sale of oil, gas and other hydrocarbon substances (other than dry gas) derived from the Long Beach tidelands, after deducting moneys expended for the extraction and sale thereof and for the satisfaction of obligations attributable to such extraction or sale; "oil revenue" also includes the net receipts from the sale of property used in such extraction or sale, the cost of which has been or may be defrayed from proceeds from such hydrocarbon substances.

(c) "Dry gas" means the gas directly produced from wells, which contains one-half ($\frac{1}{2}$) of a gallon or less of recoverable gasoline per 1,000 cubic feet, or from which gasoline has been removed by processing.

(d) "Dry gas revenue" means the reasonable wholesale market value of dry gas derived from, or attributable to production from, said Long Beach tidelands and received into the system of the municipal gas department of said City of Long Beach, and the net receipts to the City of Long Beach from the sale of tideland dry gas as such and which is not received into said system.

(e) "Tideland trust funds" means the Public Improvement Fund, Harbor Revenue Fund, Tideland Oil Fund and Harbor Reserve Fund in the City Treasury of the City of Long Beach, as said funds are presently established by the charter of said city.

(f) "Subsidence costs" means costs expended by the City of Long Beach with the prior approval of the State Lands Commission to remedy and protect against the effects of subsidence of the land surface within the boundaries of the Long Beach Harbor District (as such boundaries are defined on April 1, 1956) and within the boundaries of the Long Beach tidelands situated outside of said harbor district. "Subsidence costs" shall not include moneys expended for the construction or reconstruction of bridges, nor any subsidence expense directly incurred for continued hydrocarbon production and deductible under subdivision (b) of this section.

SEC 2 It is hereby found and determined:

(a) In that certain act entitled "An act declaring portions of revenue derived from lands conveyed to the City of Long Beach by an act entitled 'An act granting to the City of Long Beach the tidelands and submerged lands of the State of California within the boundary of the said city,' approved May 1, 1911, and by an act entitled 'An act granting certain tidelands and submerged lands of the State of California to the City of Long Beach upon certain trusts and conditions,' approved April 28, 1925, as amended by an act entitled 'An act to amend Section 1 of an act entitled "An act granting certain tidelands and submerged lands of the State of California to the City of Long Beach upon certain trusts and con-

ditions," approved April 28, 1925, relating to the use of such tidelands and submerged lands, approved May 7, 1935, to be free from the public trust for navigation, commerce and fisheries, and from such uses, trusts, conditions and restrictions as are imposed by said acts," approved June 6, 1951, the Legislature declared fifty per centum (50%) of all revenue theretofore derived and unexpended, and thereafter to be derived, by the City of Long Beach from oil, gas and other hydrocarbon substances other than dry gas produced from the Long Beach tidelands, and all of the revenue theretofore and thereafter derived from dry gas from said tidelands, to be free from the public trust for navigation, commerce and fisheries and from such uses, trusts, conditions and restrictions as were imposed by said acts of 1911, 1925 and 1935. On April 5, 1955, in the case of *Mallon v City of Long Beach*, 44 Cal. 2d 199, the Supreme Court of California held that said act of 1951 effected a partial revocation of the trust created by said acts of 1911, 1925 and 1935 and resulted in a reversion to the State of California of the sums thus released from the trust, the City of Long Beach therefore holding said sums upon a resulting trust in favor of the State. Said *Mallon* case was thereafter remanded to the superior court for further proceedings and is now pending in said court awaiting trial on the merits or other disposition. Following said *Mallon* decision, the State instituted litigation against said city with the objective of recovering those moneys and assets declared by the Supreme Court to be held in resulting trust, to recover judgment for the amount of such moneys and assets as had been theretofore spent by said city and to enjoin the expenditure of other Long Beach tideland hydrocarbon revenues for purposes not authorized by said acts of 1911, 1925 and 1935. As a result of stipulations between the Attorney General and the City of Long Beach, there have been impounded in the hands of said city securities at par and cash aggregating approximately one hundred eleven million dollars (\$111,000,000), subject to the additional impoundment of certain future income from oil and dry gas, all of said impounded assets to be held intact by said city pending the final determination of said litigation. The City of Long Beach asserts and, in the absence of a compromise settlement and adjustment of the claims of the State against said city, intends to maintain and to litigate various defenses, against said claims. In addition, said city claims certain credits or offsets against the claims of the State by reason of the expenditure of tideland hydrocarbon revenues for protective and remedial works occasioned by land subsidence and by reason of general tax revenues expended by said city upon the Long Beach tidelands. Under existing circumstances, disposition of said impounded funds and determination of the respective rights of the State and the city in the premises cannot be made except by extensive, complicated and time-consuming litigation, possibly including a lengthy court-supervised accounting, while the im-

pounded funds will remain in a condition of enforced idleness. The continuance of the existing controversies between the State and the City of Long Beach, as well as the enforced idleness of the impounded funds, is contrary to the best interests of the people of this State, including the inhabitants of the City of Long Beach. A purpose of state-wide interest and benefit will be served by the determination of the respective rights and interests of the city and the State in and to past and future hydrocarbon revenues derived from the Long Beach tidelands. Such determination will so fix and clarify the respective entitlement of the State and the city as to permit the early termination of the pending litigation by means of stipulations between the State and city and, so far as necessary or appropriate, through the entry of court orders, decrees and judgments. Such a disposition of the litigation will permit early liberation and utilization of the impounded sums for urgently needed public purposes and will avoid the public detriment incident to protracted litigation between the State and one of its major municipalities.

(b) As a result of said Mallon decision, other questions have arisen as to legally permissible purposes for the expenditure of hydrocarbon revenues from the Long Beach tidelands other than those specified in said act of 1951 as being freed from the tidelands trust. Under existing circumstances such questions must await determination in the litigation now pending between the State and the city. Until that time, the City of Long Beach is prevented from initiating and continuing numerous worth-while projects in and about the Long Beach tidelands which are or may be reasonably related to, and connected with, the purposes of the trusts upon which said lands were conveyed to said city. The trust purposes set forth in said acts of 1911, 1925 and 1935 were prescribed prior to the discovery of hydrocarbon deposits in the granted lands and were therefore conceived primarily as land use purposes. These purposes require restatement in view of the subsequent yield of substantial monetary revenues therefrom. It is to the public interest that the Legislature, to the extent permitted by the State Constitution, set forth the purposes of said trust in greater detail than heretofore, to the end that said purposes may be fulfilled without the delays incident to protracted litigation. To the extent that the Constitution may prevent the expenditure of revenues (other than those payable to the State of California hereunder) for public purposes desired by the City of Long Beach, it is the belief of the Legislature that the Attorney General and said city should seek judicial determinations further defining said city's rights and duties in the premises.

(c) Some uncertainty exists as to the exact location of the boundaries of the Long Beach tidelands. Some uncertainty also exists as to whether certain wells in the Long Beach Harbor District have been and are producing oil, gas, and other hydrocarbon substances or dry gas from Long Beach

tidelands or have been and are producing such substances from other land owned by the City of Long Beach. To settle these uncertainties will require the collection of a considerable amount of information and data, the conduct of surveys, and possible litigation

(d) It is in the interest of the people of this State, including the inhabitants of the City of Long Beach, to declare by this act the amount of oil and dry gas revenue received or held by said city on and before January 31, 1956, for the use and benefit of the State of California free from the public trust for navigation, commerce and fisheries and from such uses, trusts, conditions and restrictions as were imposed by the acts of 1911, 1925 and 1935 heretofore referred to, irrespective of these uncertainties, but such declaration should not preclude appropriate resolution, by judicial determination or otherwise, of these uncertainties for the purpose of determining revenues to be accounted for by said city after January 31, 1956.

The total amount of oil revenue and dry gas revenue received or held by the City of Long Beach for the use and benefit of the State of California free from the public trust for navigation, commerce and fisheries and from such uses, trusts, conditions and restrictions as were imposed by the acts of 1911, 1925 and 1935 heretofore referred to, to and including January 31, 1956, is hereby found to be and fixed at the sum of one hundred twenty million dollars (\$120,000,000).

SEC. 3. The Attorney General and the City of Long Beach are hereby authorized to enter into an appropriate stipulation or stipulations as may be necessary to finally determine any and all claims, demands, or causes of action as between the City of Long Beach and the State of California and arising out of, in connection with, or seeking to enforce any obligation of the City of Long Beach to account for or to pay oil revenue and dry gas revenue to or for the benefit of the State of California under this act or the acts of 1911, 1925 and 1935 as modified by the act of 1951 and by this act and for such other purposes as may be authorized or required by this act. In addition to the provisions required by this act, the stipulation may provide for other matters necessary to determine such claims, demands, or causes of action. The stipulation shall provide that the City of Long Beach shall pay the amount agreed upon in the stipulation, which shall in no case be less than one hundred twenty million dollars (\$120,000,000), to the State Controller, together with interest and other increment from investments and deposits thereof received by said city between February 1, 1956, and the date of payment. Said payment shall be made in the form and manner and at the time hereinafter prescribed. Said payment shall be deposited in the State Treasury.

SEC. 4. (a) The stipulation shall provide that the payment prescribed by Section 3 of this act shall be accomplished by the transfer of United States securities and cash from the tideland trust funds and shall recognize that the major part

of the funds to be paid to the State is presently invested in United States securities. The stipulation shall provide that to the maximum extent possible, said payment shall be accomplished without liquidation of existing securities so that said securities shall become a part of the State's investment portfolio. The stipulation shall provide that the City of Long Beach and the State Controller shall take necessary action to effect the transfer of said securities by such means as endorsement, reregistration or reissue in coupon form.

(b) The stipulation shall provide that the cash to be transferred shall be not less than two million three hundred fifty thousand dollars (\$2,350,000). The stipulation shall provide that the remainder of said payment shall be accomplished by the transfer of United States securities computed at par value; provided, however, that the stipulation shall also provide that United States Treasury bills and any securities purchased after January 31, 1956, shall be valued at cost. The stipulation shall provide that the selection of United States securities so transferred shall be made jointly by the City of Long Beach and the State Director of Finance. The stipulation shall provide that said securities shall be a representative and fair cross-section of all United States securities held in the tideland trust funds on January 31, 1956 and that any reinvestment of securities held on January 31, 1956, shall be deemed to have been held on said date for the purpose of said transfer. The stipulation shall provide that the ratio of market value of all said securities as of the close of business on January 31, 1956, to the par value thereof shall be determined. The stipulation shall provide that the market value (as of the close of business on January 31, 1956) of the United States securities transferred to the State shall bear the same ratio to the par value thereof as that determined for all the United States securities held in said tideland trust funds on January 31, 1956. "Market value" means the value of such securities in the open market and, in the case of nonmarketable securities, means the market value of securities into which such nonmarketable securities can be converted.

(c) The stipulation shall provide that said payment shall be completed within sixty (60) days after the entry of a court decree or judgment so ordering, or within such reasonable extension of time thereafter as may be permitted by the court.

SEC. 5. (a) In addition to the payment prescribed in the stipulation provided for in this act, the City of Long Beach has received and will continue to receive for the use and benefit of the State of California free from the public trust for navigation, commerce and fisheries and from such uses, trusts, conditions and restrictions as were imposed by the acts of 1911, 1925 and 1935, and shall account for and pay over monthly to the State of California the following sums:

(1) Fifty per centum (50%) of all oil revenue derived from the Long Beach tidelands, received by said city on and after February 1, 1956, less twenty-five per centum (25%) of

all subsidence costs disbursed by said city on and after April 1, 1956, until such time as the sum total of subsidence costs disbursed on and after April 1, 1956, reaches the sum of thirty million dollars (\$30,000,000);

(2) After the sum total of subsidence costs disbursed on and after April 1, 1956, shall have reached the sum of thirty million dollars (\$30,000,000), fifty percentum (50%) of all oil revenue thereafter derived from the Long Beach tidelands, less fifty per centum (50%) of all subsidence costs thereafter disbursed;

(3) All dry gas revenue received by said city on and after February 1, 1956.

(b) Upon receipt of said sums, the Controller shall cause the same to be deposited in the State Treasury.

SEC. 6. The stipulation provided for in this act shall provide that the City of Long Beach shall receive into the system of its municipal gas department all dry gas derived from the Long Beach tidelands which can be economically utilized by said department and which is not required for oil field injection or repressuring operations in said tidelands. The stipulation shall also provide that the reasonable wholesale market value of said dry gas shall be determined from time to time jointly by the City of Long Beach and the State Lands Commission in the light of prices for processed dry gas prevailing from time to time at absorption plants where wet gas produced in the Los Angeles Basin is being processed.

SEC. 7. The Legislature hereby finds that the oil revenue not required to be paid to the State is needed and can be economically utilized by the City of Long Beach for the fulfillment of those trust uses and purposes described in said acts of 1911, 1925 and 1935 which are matters of state, as distinguished from local, interest and benefit, including, but not limited to, the following:

(a) The establishment, improvement, and conduct of a harbor, and the construction, reconstruction, repair and maintenance of works and facilities incidental to said harbor, within the boundaries of the harbor district of said city (as said boundaries are defined on April 1, 1956) or within the Long Beach tidelands outside said harbor district;

(b) The construction, reconstruction, repair and maintenance of streets and roadways within the boundaries of the harbor district (as such boundaries are defined on April 1, 1956) and the construction, reconstruction, repair and maintenance of bridges wholly or partly within said boundaries of the harbor district (as such boundaries are defined on April 1, 1956);

(c) The construction, reconstruction, repair and maintenance of protective and remedial works situated within the boundaries of the harbor district (as such boundaries are defined on April 1, 1956), or within the Long Beach tidelands outside said harbor district, or which are reasonably necessary for the protection, preservation, or maintenance of said harbor

district or said tidelands, as necessitated by subsidence of the land surface;

(d) The construction, reconstruction, repair and maintenance of that certain small-boat harbor project known as the Marina located adjacent to Alamitos Bay, together with structures and other facilities incidental thereto;

(e) The acquisition of property or the rendition of services reasonably necessary to the carrying out of the foregoing uses and purposes.

SEC. 8. (a) On or before October 1st of each year, the City of Long Beach shall cause to be made and filed with the State Lands Commission a detailed statement of all expenditures of oil revenue other than that required in the stipulation provided for in this act to be paid to the State, including obligations incurred but not yet paid. Said statement shall cover the fiscal year preceding its submission and shall show the project or operation for which each such expenditure or obligation is made or incurred.

(b) In addition to the other powers and duties specifically delegated to it by this act, the State Lands Commission shall have general responsibility in connection with the interests of the State under this act and the acts cited in subdivision (a) of Section 2 hereof, including authority to examine financial and operating records relating to the production and sale of hydrocarbon products from the Long Beach tidelands and to conduct such other investigations and studies as it may deem necessary in connection therewith.

SEC. 9. Any decree or judgment entered on the stipulation provided for in this act shall be final as to any and all claims, demands or causes of action as between the City of Long Beach and the State of California and arising out of, in connection with, or seeking to enforce any obligation of the City of Long Beach to account for or to pay oil revenue and dry gas revenue to or for the benefit of the State of California under this act or any of the aforesaid acts, which claims, demands or causes of action accrued on or before January 31, 1956; otherwise the powers of the State of California over the Long Beach tidelands and over the grants evidenced by the acts of 1911, 1925 and 1935, as modified by the act of 1951 and by this act, including oil revenue and dry gas revenue received before or after January 31, 1956, and unexpended for trust purposes, and still subject to the public trust for navigation, commerce and fisheries and to the uses, trusts, conditions and restrictions as were imposed by the acts of 1911, 1925 and 1935, are hereby expressly reserved. Notwithstanding the foregoing provisions of this section, any net proceeds payable to said city prior to February 1, 1956 on account of extraction, production or sale of hydrocarbon substances derived from the Long Beach tidelands, and not received by said city prior to said date, shall, when and if ascertained and received, be accounted for and distributed in accordance with the provisions of Section 5 of this act.

SEC. 10. (a) Future contracts, royalty arrangements, or other agreements between the City of Long Beach (or any department, board, or agency thereof) and any other person, firm, corporation or association, relating to the drilling for, developing, extracting, processing, taking or removing, or disposition of oil, gas, or other hydrocarbons derived from the Long Beach tidelands (with the exception of dry gas after it has been received into the system of the municipal gas department of said City of Long Beach) shall be made and entered into only with the highest responsible bidder upon competitive bidding and shall be of no effect unless and until approved by the State Lands Commission. All specifications and forms for the purpose of inviting bids in connection therewith shall be approved by the State Lands Commission prior to publication of notice to bidders.

(b) No present or future contract, royalty arrangement, or other agreement between the City of Long Beach (or any department, board, or agency thereof) and any other person, firm, corporation or association, relating to the drilling for, developing, extracting, processing, taking or removing, or disposition of oil, gas, or other hydrocarbons derived from the Long Beach tidelands (with the exception of dry gas after it has been received into the municipal gas department of said City of Long Beach) shall be modified or amended in any respect without the advance consent of the State Lands Commission to such modification or amendment. The State Lands Commission shall also have power to carry out all functions vested in the State Lands Commission by those terms required to be in the stipulation which may be entered into pursuant to this act.

(c) Every future contract, future royalty arrangement, or other future agreement, and every modification or amendment of any present or future contract, royalty arrangement, or other agreement, made in violation of this section shall be void.

SEC. 11. Nothing in this act shall be construed as an express or implied declaration of the exact location of the boundaries of the Long Beach tidelands, or of the tideland or upland character of any well or wells with respect to oil revenue and dry gas revenue derived from said well or wells on and after February 1, 1956.

SEC. 12. All payments into the State Treasury pursuant to this act, any stipulation provided for in this act, or any judgment entered on such stipulation shall be credited to the Investment Fund, which fund is hereby established in the State Treasury, but no portion of such fund shall be expended unless and until specifically appropriated by the Legislature. The assets of the Investment Fund may be invested and re-invested by the Director of Finance in the manner prescribed by Sections 16430 to 16441, inclusive, of the Government Code. Interest received on such investments shall be credited to the Investment Fund.

SEC 13. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, within the meaning of Section 1 of Article IV of the Constitution, and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

The State of California and the City of Long Beach are presently engaged in litigation involving the disposition of past and future oil and dry gas revenues from the Long Beach tidelands. There is great uncertainty not only as to the ultimate determination of the respective claims of the parties in and to these revenues, but also as to the legality of utilizing portions of the oil revenues for certain urgently-required public works within the City of Long Beach. In order to settle speedily the major questions involved in said litigation and to clarify the legal position of the State and the City of Long Beach with respect to said public works, it is necessary that this act take immediate effect.