
CHAPTER 941

An act relating to tidelands and submerged lands granted by the state to the City of Long Beach, and in this connection, to amend Section 6 of Chapter 138 of the Statutes of 1964 (First Extraordinary Session), and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 13, 1991. Filed with
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The people of the State of California do enact as follows:

SECTION 1. (a) The State Lands Commission is authorized to negotiate and execute, on behalf of the State of California, a contract with a private contractor and the City of Long Beach for the implementation by the contractor and the City of Long Beach of an optimized waterflood program for the Long Beach Unit. Neither this act nor the contract shall supersede or amend in any respect the existing contractors' agreements for Tracts 1 and 2 of the Long Beach Unit (except to extend their terms), the Long Beach Unit Agreement, the Long Beach Unit Operating Agreement, or any other existing contract relating to the drilling for, developing, extracting, processing, taking, or removing of oil, gas, and other hydrocarbons from Tracts 1 and 2 of the Long Beach Unit.

(b) As used in this act:

(1) "Commission" means the State Lands Commission.

(2) "City" means the City of Long Beach.

(3) "Contractor" means a person or entity contracting with the commission and the city pursuant to subdivision (a).

(4) "Chapter 138" means Chapter 138 of the Statutes of 1964, First Extraordinary Session.

SEC. 2. (a) The contract authorized pursuant to Section 1 shall obligate the contractor to bear, in the first instance, the State of California's share of incremental costs. The contractor shall satisfy this obligation by making payments to the city reimbursing the state for the revenue it otherwise loses as a result of implementing the program.

(b) (1) The contract shall include a method agreed upon by the commission and the contractor for determining the volumes of oil produced from the Long Beach Unit that constitute base production and incremental production. The contract shall obligate the state to pay monthly to the contractor 50 percent of the state's share of net profits attributable to incremental production from Tracts 1 and 2 during the first eight years of the optimized waterflood program and 49 percent during year nine and each year thereafter of the optimized waterflood program. The contract shall also obligate the state to pay monthly to the city, after the contractor has been compensated for its forbearance of the state's share of incremental costs as provided in the contract, the following percentages of the state's share of net profits attributable to incremental production from Tract 1:

(A) During the first four years of the optimized waterflood program, zero percent.

(B) During years five to eight, inclusive, of the optimized waterflood program, 3.75 percent.

(C) During year nine and each year thereafter of the optimized waterflood program, 8.5 percent.

(2) These payments shall be made monthly to the contractor and to itself by the city prior to any distribution between the commission

and the city from "remaining oil revenue," as defined in Section 4 of Chapter 138.

(c) The contract shall grant to the contractor the powers, duties, and authority necessary to accomplish the optimized waterflood program as are agreed to by the commission and the contractor and which shall be consistent with Chapter 138, as supplemented by this act, and with the Long Beach Unit Agreement and the Long Beach Unit Operating Agreement.

(d) The contract shall provide, as part of the consideration to be paid to the State of California by the contractor, the quitclaim of state oil and gas leases 308 and 309 covering tide and submerged lands in Santa Barbara County. Those lands, when they become fully vested in the state, free of the quitclaimed leases, shall be subject to the restrictions on leasing for the extraction of oil and gas applicable to those lands listed in subdivision (b) of Section 6871.2 of the Public Resources Code or any successor statute applicable to those lands.

SEC. 3. (a) In order to implement the optimized waterflood program, the contractor and the city shall prepare plans of development for the Long Beach Unit. Each plan shall cover a period of five years and shall be reviewed and replaced every two years. Each plan also shall include for each of its first two years all of the matters required to be included in annual plans of development and operation as provided by Section 5 of Chapter 138. The plans shall be subject to review and revision by the commission for consistency with good oil field practice, the optimized waterflood program, and the Long Beach Unit and Unit Operating Agreements and environmental and safety concerns. Subject to subdivision (c) of Section 5 of Chapter 138 and subdivision (j) of this section, the contractor and the city shall revise the plan to incorporate the changes ordered by the commission where the commission has found the changes to be necessary to assure that the plan (1) is consistent with good oil field practice, (2) is consistent with the optimized waterflood program, (3) is consistent with the Long Beach Unit and Unit Operating Agreements, or (4) does not involve significant safety or environmental risks. The contractor or the city, or both, may apply to a court of competent jurisdiction for review of the changes ordered by the commission. Subject to subdivision (c) of Section 5 of Chapter 138, the plan adopted by the contractor and the city with whatever changes are ordered by the commission shall go into effect and remain in effect, subject to any additional approvals that may be required by the Long Beach Unit Agreement, unless and until a court of competent jurisdiction determines in the exercise of its independent judgment that any changes ordered by the commission are not reasonable. In the event of such a judicial determination, the plan shall be altered as ordered by the court.

(b) The contract shall provide for the interim modification by the contractor and the city of the five-year plans of development from time to time, as necessary or appropriate, subject to review and revision by the commission in accordance with subdivision (a).

(c) The contractor and the city shall prepare annually a one-year plan for the implementation of the current five-year plan of development in accordance with the requirements of subdivision (a) of Section 5 of Chapter 138. The one-year plan shall consist of the applicable portion of the five-year plan described in subdivision (b), plus a budget of intended expenditures. The contract shall provide that any budgetary disputes between the contractor and the city are to be resolved by the commission in accordance with the contract. The contract shall also provide for the commission to resolve any such budgetary disputes that may arise in connection with any modifications to an annual plan. Subject to subdivisions (a) and (d), if applicable, the one-year plans of development may be modified in accordance with the procedures set out in the contract.

(d) Each proposed budget and each proposed modification to a budget included in an annual plan shall be subject to review and revision by the commission for consistency with the current five-year plan. Subject to subdivision (c) of Section 5 of Chapter 138, subdivision (j) of this section, and the limitations set forth in the contract, the contractor and the city shall revise each budget or modification to a budget to incorporate changes ordered by the commission where the commission has found the changes to be necessary to assure the consistency of the budget with the five-year plan. The city may apply to a court of competent jurisdiction for review of the changes ordered by the commission. Subject to subdivision (c) of Section 5 of Chapter 138 and the limitations set forth in the contract, the budget or the modification to a budget adopted by the contractor and the city with whatever changes are ordered by the commission shall go into effect and remain in effect, subject to any additional approvals that may be required by the Long Beach Unit Agreement, unless a court of competent jurisdiction determines in the exercise of its independent judgment that any changes ordered by the commission are not reasonable. In the event of such a judicial determination, the budget shall be altered as ordered by the court.

(e) The adoption of an annual plan provided for in subdivisions (c) and (d), and any and all modifications thereof, shall constitute the adoption of that plan or modification by the state, subject to the rights of the state under subdivision (d), and the city for all purposes, including Article 4 of the Long Beach Unit Agreement, and the contract shall provide for the state, the city, and the contractor to take any actions which may be necessary to cause each such annual plan to be approved, if required, in accordance with the Long Beach Unit Agreement.

(f) Subject to the approval, if required, of any parties to the Long Beach Unit Agreement other than the state, the city, or the contractor, the city, acting with the consent of the contractor, may cause the expenditure of funds for Long Beach Unit operations in excess of the amount of any category of expenditures provided for in the budget of an annual plan, up to a maximum of 120 percent of

the budgeted amount for that category.

(g) In order to carry out the purposes of this section and to effect a speedy determination of any disagreement between the commission and either, or both, the contractor and the city, the Superior Court for the County of Los Angeles shall give any proceeding filed in that court under this section priority over other civil matters, and any court of competent jurisdiction in which the proceeding is filed shall have the power to issue appropriate temporary orders.

(h) This section shall become inoperative upon the termination of the contractual provisions relating to the optimized waterflood program for the Long Beach Unit. Subdivisions (b), (d), and (g) of Section 5 of Chapter 138 shall be inoperative during the period this section remains operative.

(i) The contract shall specify time periods for the reviews and revisions by the commission provided for in this section.

(j) The contract shall provide the contractor with the discretionary authority to undertake expenditures up to a maximum annual amount provided in the contract subject only to a more limited review by the commission as provided in the contract.

SEC. 4. (a) If the optimized waterflood program has not been terminated in accordance with the provisions of the contract authorized in Section 1 by January 1, 1995, the terms of the existing contractors' agreements for Tracts 1 and 2 of the Long Beach Unit shall be extended, as of June 30, 1995, to the date on which the Long Beach Unit Agreement is terminated, notwithstanding anything to the contrary in Chapter 138, any other provision of law, the Long Beach City Charter, or any law or ordinance of the city. However, nothing in this act shall limit the application of any law or regulation which is intended to protect or may protect the environment. If the contracts are extended, each of the parties that is a contractor or a person comprising a contractor under the contractors' agreement for Tracts 1 and 2 as of January 1, 1995, shall have the option, but not the obligation, to continue its interest for the extended term, provided that it exercises its option in writing by June 30, 1995. The contractor described in Section 1 of this act shall have the obligation to assume the extended term of any contractor or any person comprising a contractor that does not so exercise the option to extend.

(b) Subdivision (f) of Section 3 of Chapter 138 is inapplicable to the extensions referred to in subdivision (a) of this section.

SEC. 5. Notwithstanding any provision of subdivision (e) of Section 4 of Chapter 138, the city shall, for a period of eight years, commencing January 1, 1992, retain 50 percent of the interest earned for the preceding calendar year on the "reserve for subsidence contingencies" as established pursuant to subdivision (f) of Section 4 of Chapter 138, in addition to the one million dollars (\$1,000,000) retained by the city from remaining oil revenue, as so defined. Commencing January 1, 2000, for a period of four years, the city shall pay to the state 50 percent of the interest earned on the "reserve for

subsidence contingencies.” Neither the city nor the state shall be entitled to retain or receive any further interest earned in the “reserve for subsidence contingencies” if the optimized waterflood program is terminated in accordance with the contract authorized in Section 1. In that event, the money shall remain in the “reserve for subsidence contingencies.” The sums retained by the city shall be utilized by the city in accordance with the provisions of Section 6 of Chapter 138.

SEC. 6. The Legislature hereby finds that, notwithstanding the retention by the City of Long Beach and the state of a portion of the interest earned on the “reserve for subsidence contingencies” pursuant to Section 5, the “reserve for subsidence contingencies” will contain sufficient funds to pay any and all of the claims, judgments, and costs enumerated in subdivision (f) of Section 4 of Chapter 138.

SEC. 7. The Legislature finds and declares that the provisions of this act are necessary for the promotion of the public interest and are of statewide concern. To the extent that any provision of this act conflicts with Chapter 138, any other provision of law, the Long Beach City Charter, or any law or ordinance of the city, the provisions of this act shall prevail. However, nothing in this act shall limit the application of any law or regulation which is intended to protect or may protect the environment. No person or entity shall have liability to any other person or entity by reason of the preparation, execution, or delivery of any and all contracts provided for in this act. However, nothing in this act shall relieve any person or entity from liabilities imposed by those contracts or for operations conducted pursuant to those contracts.

SEC. 8. Section 6 of Chapter 138 of the Statutes of 1964 (First Extraordinary Session) is amended to read:

Sec. 6. The Legislature hereby finds that the remaining oil revenue hereinabove allocated to the City of Long Beach is needed and can be economically utilized by the city for the fulfillment of the trust uses and purposes described in the acts of 1911, 1925, and 1935 and described as follows in this act, which are hereby found to be matters of state, as distinguished from local, interest and benefit.

(a) The construction, reconstruction, improvement, repair, operation and maintenance of works, lands, waterways, and facilities necessary for the harbor within the boundaries of the harbor district of the city (as those boundaries were defined on April 1, 1956).

(b) The construction, reconstruction, repair, operation, and maintenance of streets, roadways, bridges, and bridge approaches within the boundaries of, or reasonably necessary to provide immediate access to, the harbor district (as such boundaries were defined on April 1, 1956).

(c) The construction, reconstruction, repair, operation, and maintenance of the bulkheads, piers, earthfills, streets, roadways, bridges, bridge approaches, buildings, structures, recreational facilities, landscaping, parking lots, and other improvements on or

adjacent to the Long Beach tidelands or on or adjacent to the Alamitos Beach Park Lands for the benefit and use of those tidelands or the Alamitos Beach Park Lands.

(d) The construction, reconstruction, repair, operation, and maintenance of small boat harbors, marine stadiums, maritime museum, marine parks, beaches, waterways, and related facilities, on or adjacent to the Long Beach tidelands or on or adjacent to the Alamitos Beach Park Lands, or on or adjacent to aquatic recreational areas of the aforesaid nature.

(e) The acquisition, filling, improvement, rehabilitation, and disposal of lands, which have, prior to January 1, 1964, been damaged by subsidence, located in the City of Long Beach westerly of Alamitos Avenue, easterly of the harbor district and southerly of Ocean Boulevard (as those streets and that district now exist).

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

(g) In addition to the foregoing, expenditures for any other use or purpose of state, as distinguished from purely local, interest and benefit which are in fulfillment of those trust uses and purposes described in the acts of 1911, 1925, and 1935, and which are approved in advance by the State Lands Commission.

(h) As to any expenditure of oil revenue for a capital improvement involving an amount in excess of one hundred thousand dollars (\$100,000) proposed to be made under subdivisions (a) to (f), inclusive, of this section, the City of Long Beach shall file with the State Lands Commission an adequate detailed description of such capital improvement not less than 60 days prior to the time of any disbursement therefor or in connection therewith. The description shall specify, in addition, the particular subdivision or subdivisions of this section which the city deems applicable and its reasons, if necessary, for regarding such expenditure as being so authorized. The commission shall have 60 days after the time of such filing within which to notify the city that such capital improvement is not authorized by any of such subdivisions. In the event the commission so notifies the city, a copy of the opinion of the Attorney General (or other legal counsel of the commission) upon which such disapproval has been based shall be delivered to the city. In the event the commission notifies the city that such capital improvement is not authorized, the city shall not disburse any oil revenue for or in connection with that capital improvement for a period of 30 days following such notice, during which period or afterwards the State Lands Commission may seek any judicial relief in any court of competent jurisdiction which it deems appropriate.

In order to carry out the purposes of this section and to effect a speedy determination of any disagreement between the city and the commission, the Superior Court of the State of California for the County of Los Angeles (in the event such proceeding is filed in that court) shall give any proceeding filed by the city or state under this

section priority over other civil matters.

SEC. 9. Sections 2 to 8, inclusive, of this act shall become operative only if the State Lands Commission executes on behalf of the State of California the contract referred to in subdivision (a) of Section 1 of this act.

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

In order to implement an urgently needed optimized waterflood program for the Long Beach Unit at the earliest possible time, it is necessary that this act take effect immediately.
