

CHAPTER 1077

An act to amend Section 1 of, and to add Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 to, Chapter 78 of the Statutes of 1917, relating to the use of certain tide and submerged lands granted to the City of Santa Monica.

[Approved by Governor September 14, 1970 Filed with
Secretary of State September 14, 1970]

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

SECTION 1. Section 1 of Chapter 78 of the Statutes of 1917 is amended to read:

Section 1. There is hereby granted to the City of Santa Monica, hereafter called "city," a municipal corporation of

the State of California, and to its successors, all the right, title and interest of the State of California, held by said state by virtue of its sovereignty, in and to all the tidelands and submerged lands, within the present boundaries of said city, and situated below the line of mean high tide of the Pacific Ocean, to be forever held by said city, and by its successors, in trust for the uses and purposes, and upon the express conditions following, to wit:

(a) Said lands shall be used by said city and by its successors, solely for the establishment, improvement and conduct of a harbor and for the establishment and construction of bulkheads or breakwaters for the protection of lands within its boundaries, or for the protection of its harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays, and other utilities, structures and appliances necessary or convenient for the promotion or accommodation of commerce and navigation, and the protection of the lands within said city, and said city, or its successors, shall not, at any time, grant, convey, give or alien said lands, or any part thereof, to any individual, firm or corporation for any purpose whatsoever; provided, that said city, or its successors, may grant franchises thereon, for a period not exceeding 66 years, for wharves and other public uses and purposes, and may lease said lands, or any part thereof for a period not exceeding 66 years, for purposes consistent with the trusts upon which said lands are held by the State of California, and with the requirements of commerce or navigation at said harbor, except that leases for the extraction and removal of oil and gas deposits may only be for a period not exceeding 25 years;

(b) Said harbors shall be improved by said city without expense to the state, and shall always remain a public harbor for all purposes of commerce and navigation, and the State of California, shall have, at all times, the right to use, without charge, all wharves, docks, piers, slips, quays and other improvements constructed on said lands, or any part thereof, for any vessel or other watercraft, or railroad, owned or operated by the State of California;

(c) In the management, conduct or operation of said harbor, or of any of the utilities, structures or appliances mentioned in paragraph (a), no discrimination in rates, tolls, or charges, or in facilities, for any use or service in connection therewith shall ever be made, authorized or permitted by said city or by its successors. The absolute right to fish in the waters of said harbor with the right of convenient access to said waters over said lands for said purpose, is hereby reserved to the people of the State of California.

(d) Insofar as such use does not interfere with the other uses provided for in this act said lands may be used and developed for recreational purposes and facilities, and parking lots necessary for such use and development may be constructed, operated and maintained thereon.

SEC. 2. Section 2 is added to Chapter 78 of the Statutes of 1917, to read:

SEC. 2. The city shall establish a separate trust fund or funds on or before December 31, 1971, for deposit of all moneys or proceeds derived from the granted tidelands in the city. Commencing on September 30, 1973, a statement of financial condition and operation shall be submitted by the city to the Auditor General annually, on or before September 30 of each year for the preceding fiscal year.

SEC. 3. Section 3 is added to Chapter 78 of the Statutes of 1917, to read:

Sec. 3. Notwithstanding any other provision of law to the contrary, the city, acting either alone or jointly with another local or state agency, may use revenues accruing from or out of the use of the granted tidelands for any or all of the following purposes; provided, that they comply with the terms of the trust and are matters of statewide, as distinguished from local or purely private, interest and benefit:

(a) For the establishment, improvement and conduct of harbors, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient, for the promotion and accommodation of commerce and navigation.

(b) For all commercial and industrial uses and purposes, and the construction, reconstruction, repair and maintenance of commercial and industrial buildings, plants and facilities.

(c) For the establishment, improvement and conduct of airport and heliport or aviation facilities, including, but not limited to, approach, takeoff and clear zones in connection with airport runways, and for the construction, reconstruction, repair, maintenance and operation of terminal buildings, runways, roadways, aprons, taxiways, parking areas, and all other works, buildings, facilities, utilities, structures and appliances incidental, necessary, or convenient for the promotion and accommodation of air commerce and air navigation.

(d) For the construction, reconstruction, repair and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary, or convenient for the promotion and accommodation of any of the uses set forth in this section.

(e) For the construction, reconstruction, repair, maintenance and operation of public buildings, public assembly and meeting places, convention centers, public parks, public playgrounds, public bathhouses and public bathing facilities, public recreation and public fishing piers, public recreation facilities, including, but not limited to, public golf courses, and for all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any such uses.

(f) For the establishment, improvement and conduct of small boat harbors, marinas, aquatic playgrounds and similar recreational facilities, and for the construction, reconstruction, repair, maintenance and operation of all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any of such uses, including, but not limited to, snackbars, cafes, cocktail lounges, restaurants, motels, hotels, and other forms of transient living accommodations open to the public launching ramps and hoists, storage sheds, boat repair facilities with cranes and marine ways, administration buildings, public restrooms, bait and tackle shops, chandleries, boat sales establishments, service stations and fuel docks, yacht club buildings, parking areas, roadways, pedestrian ways and landscaped areas and other compatible commercial and recreational activities and uses.

(g) For the protection of wildlife habitats, the improvement, protection, and conservation of the wildlife and fish resources and the ecology of the area, the providing of open space areas and areas for recreational use with open access to the public, the enhancement of the aesthetic appearance of the bay and the area, control of dredging or filling of the bay, or both, and prevention of pollution of the bay.

(h) For the promotion, by advertising and such other means as may be reasonable and appropriate, of maximum public use of such granted tidelands or to encourage private investment in development of such granted tidelands for the highest and best use in the public interest.

(i) For any other uses or purposes of statewide, as distinguished from purely local or private, interest and benefit which are in fulfillment of those trust uses and purposes described in this act.

(j) For the acquisition of property and the rendition of services reasonably necessary to the carrying out of the uses and purposes described in this section, including the amortization or debt service of any capital improvement funding program which is consistent with the terms and conditions set forth in this act.

Sec. 4. Section 4 is added to Chapter 78 of the Statutes of 1917, to read:

Sec. 4. Such revenues may be deposited in one or more reserve funds for use in accordance with the terms and conditions set forth in this act.

Sec. 5. Section 5 is added to Chapter 78 of the Statutes of 1917, to read:

Sec. 5. As to the accumulation and expenditure of revenues for any single capital improvement on the granted lands involving an amount in excess of two hundred fifty thousand dollars (\$250,000) in the aggregate, the city shall file with the State Lands Commission a detailed description of such capital improvement not less than 90 days prior to the time of any disbursement therefor or in connection therewith, excepting

preliminary planning. The State Lands Commission may, within 90 days after the time of such filing, determine and notify the city that such capital improvement is not in the statewide interest and benefit or is not authorized by the provisions of Section 3 of this act. The State Lands Commission may request the opinion of the Attorney General on the matter, and if it does so, a copy of such opinion shall be delivered to the city with the notice of its determination. In the event the State Lands Commission notifies the city that such capital improvement is not authorized, the city shall not disburse any revenue for or in connection with such capital improvement, unless and until it is determined to be authorized by a final order or judgment of a court of competent jurisdiction. The city is authorized to bring suit against the state for the purpose of securing such an order or adjudication, which suit shall have priority over all other civil matters. Service shall be made upon the Executive Officer of the State Lands Commission and the Attorney General, and the Attorney General shall defend the state in such suit. Each party shall bear their own costs of suit and no such costs shall be recovered from the other party.

SEC. 6. Section 6 is added to Chapter 78 of the Statutes of 1917, to read:

Sec. 6. At the end of each fiscal year, beginning September 30, 1975, that portion of 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 the maintenance of beaches, harbors, and other tidelands trust activities have been paid, shall be deemed excess revenue; provided, that any funds deposited in a reserve fund for future capital expenditures, or any funds required to service or retire general obligation or revenue bond issues, or special funds required to be maintained for the payment of contractual obligations owing to the state on account of harbor improvements authorized by the provisions of Article 3 (commencing with Section 70) of Chapter 2 of Division 1 of the Harbors and Navigation Code, the moneys from which have been, or will be, used for purposes authorized by law, shall not be deemed excess revenue. Amortization payments made subsequent to the effective date of the enactment of this act at the 1970 Regular Session of the Legislature for capital improvements of the granted lands for purposes authorized by the terms of the grant may be considered as expenditures for the purpose of determining net revenues. The excess revenue, as determined pursuant to this section, shall be divided as follows: 85 percent to the General Fund in the State Treasury, and 15 percent to the city to be deposited in the city's trust fund and used for any purpose authorized by Sections 1 and 3 of this act.

SEC. 7. Section 7 is added to Chapter 78 of the Statutes of 1917, to read:

Sec. 7. The State Lands Commission, at the request of the city, shall grant an extension of time for filing any report or statement required by this act which was not filed due to mistake or inadvertence not to exceed 30 calendar days after service upon the city by the State Lands Commission of written notice of violation.

SEC. 8. Section 8 is added to Chapter 78 of the Statutes of 1917, to read:

Sec. 8. In the event that the city fails or refuses to file with the State Lands Commission or with the Auditor General any report, statement, or document required by any provision of this act within the time period specified by this act, or any extension period granted pursuant to this act within 30 days after written notice to the city, or fails or refuses to carry out the terms of the grant within 30 days after written notice to the city, the State Lands Commission or the Auditor General shall within 60 days notify the Chief Clerk of the Assembly and the Secretary of the Senate.

The Attorney General shall, upon request of the State Lands Commission, after the city has been given such notice and after such failure or refusal by the city, bring such judicial proceedings for correction and enforcement as are appropriate, and shall act to protect any properties and assets situated on the granted tidelands or derived therefrom.

SEC. 9. Section 9 is added to Chapter 78 of the Statutes of 1917, to read:

Sec. 9. The State Lands Commission may from time to time, at the request of the Legislature, institute a formal inquiry to determine that the terms and conditions of the grant and amendments thereto have been complied with, and that all other applicable provisions of law concerning these specific granted lands are being complied with in good faith.

SEC. 10. Section 10 is added to Chapter 78 of the Statutes of 1917, to read:

Sec. 10. The Auditor General shall, on or before March 30 of each year, commencing on March 30, 1974, report to the Chief Clerk of the Assembly, to the Secretary of the Senate, and to the State Lands Commission, the full details of any transaction or condition reported to him pursuant to this act which he deems in probable conflict with the requirements of this act, or with any other applicable provision of law concerning these specific granted lands.

SEC. 11. Section 11 is added to Chapter 78 of the Statutes of 1917, to read:

Sec. 11. The Attorney General shall bring an action in the Superior Court of the County of Los Angeles to declare that the grant under which the city holds such tidelands and submerged lands is revoked for gross and willful violation of the terms of the grant or other applicable provisions of law concerning these specific granted lands, or to compel compliance with the terms and conditions of the grant, or the provisions of such other applicable law, upon request by concurrent

resolution of either house of the Legislature or upon formal request of the State Lands Commission. Such request shall be made only after a finding that the city has grossly and willfully violated the terms of the grant or other applicable provisions of law concerning these specific granted lands.

Such finding shall be supported by substantial evidence and shall be made only at the conclusion of a noticed public hearing at which the city has been given an opportunity to present evidence to fully describe conditions and extenuating circumstances and to present facts to disprove the alleged violation.

SEC. 12. Section 12 is added to Chapter 78 of the Statutes of 1917, to read:

Sec. 12. In the event the grant of tidelands in trust to the city is revoked pursuant to Section 11 of this act, such revocation shall not impair or affect the security of leases or the rights or obligations of third parties, including lessees, lenders for value, or others who are parties to contracts which, except for such revocation, would be lawful and binding contracts.