

MINUTE ITEM

2/23/67

42. PROPOSED LEGISLATIVE PROGRAM - 1967 GENERAL SESSION - W.O.s 5967.21, 5967.22, 5967.23, 5967.24, AND 5967.25.

After consideration of Calendar Item 41 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE EXECUTIVE OFFICER IS AUTHORIZED TO SUBMIT PROPOSED LEGISLATION FOR CONSIDERATION DURING THE 1967 SESSION OF THE LEGISLATURE TO PROVIDE FOR THE AMENDMENT OF SECTIONS 6401, 6817 OF THE PUBLIC RESOURCES CODE, FOR THE ADDITION OF SECTION 113 TO THE GOVERNMENT CODE, AND FOR AMENDMENTS TO CIVIL CODE SECTION 1007 AND GOVERNMENT CODE SECTION 35014, WITH THE FORM OF LEGISLATION TO BE DRAFTED BY THE OFFICE OF THE LEGISLATIVE COUNSEL TO ACCOMPLISH THE PURPOSES HEREIN PRESENTED AND AS DETAILED IN EXHIBITS "A" THROUGH "E".

Attachment

Calendar Item 41 (9 pages)

41.

PROPOSED LEGISLATIVE PROGRAM - 1967 GENERAL SESSION - W.O. 5967.2

It is proposed that amendments to existing code sections or new sections be presented as detailed in the legislative bill format attached as Exhibits "A" through "E", for the purposes outlined:

1. Amend Civil Code Section 1007: To provide the State with the same expressed rights as counties and other enumerated governmental entities to prevent adverse possession claims. Amendment indicates that this is declaratory of pre-existing law and not a change.
2. Amend Public Resources Code Section 6401: In exchanges of real property where State receives the mineral interest in the parcel or parcels being acquired, would permit the State to transfer the mineral interests in lands being exchanged.
3. Amend Public Resources Code Section 6817: To clarify the ambiguous portions of the section dealing with apportionments. The amendments are technical, and conform meanings to the Attorney General's opinions. Amendment indicates that this is declaratory of existing law and ratifies and confirms apportionments made heretofore.
4. Amend Government Code Section 35014: Clarifies the procedure relating to the approval of all tidelands or submerged lands boundaries proposed to be annexed by cities. Changes from 30 days to 45 days the time for boundary descriptions and maps filed to be approved by the State Lands Commission.
5. Add Government Code Section 113: Enables the State to accept retrocessions of jurisdiction of those areas over which the Federal Government has exclusive jurisdiction but desires to terminate the jurisdiction.

IT IS RECOMMENDED THAT THE EXECUTIVE OFFICER BE AUTHORIZED TO SUBMIT PROPOSED LEGISLATION FOR CONSIDERATION DURING THE 1967 SESSION OF THE LEGISLATURE TO PROVIDE FOR THE AMENDMENT OF SECTIONS 6401, 6817 OF THE PUBLIC RESOURCES CODE, FOR THE ADDITION OF SECTION 113 TO THE GOVERNMENT CODE, AND FOR AMENDMENTS TO CIVIL CODE SECTION 1007 AND GOVERNMENT CODE SECTION 35014, WITH THE FORM OF LEGISLATION TO BE DRAFTED BY THE OFFICE OF THE LEGISLATIVE COUNSEL TO ACCOMPLISH THE PURPOSES HEREIN PRESENTED AND AS DETAILED IN EXHIBITS "A" THROUGH "E".

Attachments

Exhibits "A" through "E"

EXHIBIT "A"

An act to amend Section 1007 of the Civil Code, relating to title by prescription, adverse possession, and exemption of public property.

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

Section 1. Section 1007 of the Civil Code is amended to read:

1007. Occupancy for the period prescribed by the Code of Civil Procedure as sufficient to bar any action for the recovery of the property confers a title thereto, denominated a title by prescription, which is sufficient against all, but no possession by any person, firm or corporation no matter how long continued of any land, water, water right, easement, or other property whatsoever dedicated to or owned by the State, any county, city and county, city, irrigation district, public or municipal corporation or any department or agency thereof, shall ever ripen into any title, interest or right against the State, such county, city and county, city, public or municipal corporation, irrigation district, or any department or agency thereof or any agency created or authorized by the Constitution or any law of this State for the administration of any State school, college or university. The exemption of certain classes of governmental property is intended as a limitation and shall not be deemed to subject to the operation of this section any classes of governmental property which would not otherwise be subject thereto.

Sec. 2. The amendment of Section 1007 of the Civil Code by Section 1 of this act does not constitute a change in, but is declaratory of, the pre-existing law.

EXHIBIT "B"

An act to amend Section 6401 of the Public Resources Code excepting certain land exchanges from mineral reservation requirements.

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

Section 1. Section 6401 of the Public Resources Code is amended to read: . :

6401. All oil, gas, oil shale, coal, phosphate, sodium, gold, silver, and all other mineral deposits in public lands belonging to the State, or which may become the property of the State, are reserved to the State. Such deposits are reserved from sale except upon a rental and royalty basis and except as otherwise provided by law. A purchaser of any public lands belonging to the State, or which may become property of the State, shall acquire no right, title, or interest in or to such deposits. The right of such purchaser shall be subject to the reservation of all oil, gas, oil shale, coal, phosphate, sodium, gold, silver, and all other mineral deposits, and to the conditions and limitations prescribed by law providing for the State and persons authorized by it to prospect for, mine, and remove such deposits, and to occupy and use so much of the surface of the land as may be required for all purposes reasonably extending to the mining and removal of such deposits therefrom: provided, that when any person, authorized by the State to prospect for said reserved deposits to the extent provided for in this division, enters upon such land, such person so entering shall be liable to and shall compensate such purchaser of land for all damage and injury to the permanent improvements and the crops on such lands by reason of such prospecting; provided, further, that persons who have acquired the right to mine and remove such deposits may re-enter, occupy and use so much of the surface of the land as may be required for all purposes reasonably extending to the mining and removal of such deposits

EXHIBIT "B" (CONTD.)

therefrom; first, upon securing the written consent or waiver of the purchaser of such public land; second, upon payment of the damages to crops or other tangible improvements to the owner thereof, where agreement may be had as to the amount thereof; or third, in lieu of either of the foregoing provisions, upon the execution of a good and sufficient bond or undertaking to the State of California for the use and benefit of the purchaser of such land, to secure the payment of such damages to the crops or tangible improvements of the purchaser of said land as may be determined and fixed in an action brought upon the bond or undertaking in a court of competent jurisdiction against the principal and sureties thereon, such bond or undertaking to be in the form and in accordance with the rules and regulations prescribed by the commission: and provided, further, that the provisions of this section shall not apply to any compromise agreement entered into under this division, nor to any exchange of real property where the State receives the mineral rights in the parcel or parcels being acquired by the State.

EXHIBIT "C"

An act to amend Section 6817 of the Public Resources Code relating to the disposition of revenues from tide and submerged lands.

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

Section 1. Section 6817 of the Public Resources Code is amended to read:

6817. (a) The Controller shall annually as of June 30 of each calendar year apportion for the fiscal year ending on such date to each city or county having within its boundaries ungranted tide and submerged lands or such other tide and submerged lands granted to it by the State in which the State has reserved the rights to the mineral deposits contained therein, one percent (1%) of the revenues paid to the State under Article 4 (commencing with section 6871) of this chapter from such tide and submerged lands which are within the limits of the particular county or city, except that the total amount apportioned to each city or county in each year shall not exceed seventy-five thousand dollars (\$75,000) per mile, or fraction of a mile, of ocean frontage within and owned or operated as a park by such city or county and leased by the State Lands Commission for the production of oil, gas, and other hydrocarbons, and only in those cases where such ocean frontage is available to the public free of charge for recreational purposes. For the purposes of this section tide and submerged lands within the limits of a city shall not be deemed to be within the boundaries of a county except in the case of a city and county. The State Lands Commission shall at the time of remitting revenues to the State Treasury received under Article 4 (commencing with section 6871) of this chapter report to the State Controller the total amount of the revenue paid from the tide and submerged lands to the State shown with respect to each city or county to which such amount is applicable. The apportionment for any

EXHIBIT "C" (CONTD.)

given fiscal year shall be based upon the physical facts with respect to each city or county existing on June 30th of the next preceding fiscal year. The report of the State Lands Commission and the apportionments of the Controller shall be final.

(b) The amounts paid to the several cities and counties shall be deposited in a special tide and submerged lands fund established by such cities or counties, to be held in trust and to be expended only for the promotion and accommodation of commerce, navigation, and fisheries, for the protection of the lands within the boundaries of the cities and counties, and for the promotion, accommodation, establishment, improvement, operation, and maintenance of public recreational beaches and coastline for the benefit of all the people of the State.

(c) The Legislature hereby finds and declares that the purposes specified in subdivision (b) constitute matters of statewide interest and that the expenditure of funds for such purposes will benefit all of the people of the State.

This section shall be operative with respect to all revenues received in the State Treasury on and after October 1, 1963.

The amendment hereby made is declaratory of existing law and any apportionments heretofore made pursuant to paragraph (a) are hereby ratified and confirmed.

EXHIBIT "D"

An act to amend Section 35014 of the Government Code relating to the annexation of tidelands or submerged lands.

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

Section 1. Section 35014 of the Government Code is amended to read:

35014. No tidelands ~~tid~~e or submerged lands in the Pacific Ocean which are owned by the state or by its grantees in trust shall be annexed to a city except that portion of such tidelands ~~the~~ tide or submerged lands encompassed within the seaward or waterward extensions of the existing land boundaries of the city, or of the proposed land boundaries of the territory being annexed as part of the same proceedings, extended from the point where the land boundaries intersect the shoreline at such an angle to the shoreline and following such a course or courses as may be approved by the State Lands Commission.

If any such tidelands ~~tid~~e or submerged lands shall be included within the boundaries of any territory proposed to be annexed to a city, a description of such boundaries, together with a map showing such boundaries, shall be filed with the State Lands Commission. Such filing shall be made prior to filing or taking any action under Chapter 6.6 (commencing with Section 54773), Part 1, Division 2, Title 5. The State Lands Commission shall approve or disapprove all portions of the boundaries located upon such tidelands ~~tid~~e or submerged lands and in making such determination it shall, where feasible and appropriate, require such extensions of the land boundaries of the city to be at right angles to the general direction of the shoreline at each point of intersection of the shoreline with the land boundaries of the city, provided that, in the interest of insuring an orderly and equitable pattern of offshore boundaries, it may establish such other angle and such other courses for each such offshore boundary as it may deem necessary considering any irregularity of

EXHIBIT "D" (CONTD.)

the shoreline, other geographical features, the effect of such offshore or submerged lands annexations on the uplands of the city and adjoining territory, and the existing and potential boundaries of other cities and of unincorporated communities.

Within 30 45 days after the filing of the boundary description and map with the State Lands Commission, said commission shall make a determination of the proper offshore or submerged lands boundaries. Said determination shall be final and conclusive. Failure to report within said time shall be deemed approval of the proposed offshore or submerged lands boundaries.

The State Lands Commission shall report its determination to the city, to such other person or persons, if any, as shall have filed said boundary description and map, and to the executive officer of the local agency formation commission. Thereafter, filings and action may be taken pursuant to Chapter 6.6 (commencing with Section 54773), Part 1, Division 2, Title 5. Pursuant to said Chapter 6.6 the local agency formation commission may review and make determinations as to all portions of the boundaries, other than said offshore or submerged lands boundaries.

For purposes of this section, submerged lands include but are not limited to lands underlying navigable waters irrespective of whether or not such waters are subject to tidal influences.

EXHIBIT "E"

An act to add Section 113 of the Government Code, relating to acceptance of retrocession of jurisdiction from the United States.

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

Section 1. Section 113 of the Government Code is added to read:

113. The Legislature of California hereby consents to the retrocession of jurisdiction by the United States of land within this State upon and subject to each and all of the following express conditions:

(a) The United States must in writing have requested State acceptance of retrocession, and unless there is an officer of the United States empowered by a United States statute to cede jurisdiction, said request shall be by the act of Congress; such retrocession may return all jurisdiction to the State or may provide for concurrent jurisdiction.

(b) When the conditions of subsection (a) of this section have been found and declared to have occurred and to exist, by the State Lands Commission, the Commission shall hold a hearing to determine whether acceptance of such retrocession is in the best interests of the State. Notice of such hearing shall be published pursuant to Section 6061 in each county in which the land or any part thereof is situated and a copy of such notice shall be personally served upon the clerk of the board of supervisors of each such county. The State Lands Commission shall make rules and regulations governing the conditions and procedure of such hearings.

(c) The determination of the State Lands Commission shall be final and jurisdiction accepted shall become effective when certified copies of its orders or resolutions have been filed in the Office of the Secretary of State and recorded in the office of the county recorder of each county in which any part of the land is situate.