

48. PROPOSED ADDITION TO LEGISLATIVE PROGRAM - 1969 GENERAL SESSION -
W.O. 7069.2.

After consideration of Supplemental Calendar Item 51 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE EXECUTIVE OFFICER IS AUTHORIZED TO SUBMIT A DRAFT OF PROPOSED LEGISLATION RELATING TO THE BOUNDARY BETWEEN STATE-OWNED SUBMERGED LANDS AND OUTER CONTINENTAL SHELF LANDS FOR INTRODUCTION IN THE 1969 LEGISLATIVE SESSION.

Attachment

Calendar Item 51 (4 pages)

51.

PROPOSED ADDITION TO LEGISLATIVE PROGRAM - 1969 GENERAL SESSION.

On October 24, 1968 the Commission authorized the Executive Officer to submit drafts of legislation to amend Public Resources Code Section 6503 to permit charging of rental fees for occupancy of sovereign lands by private recreational piers and to amend Streets and Highways Code Section 101.5 to require that normal fees be paid by the Division of Highways for use of State General Fund land. The drafts have been submitted and bills should be introduced shortly by administration selected authors.

Since that time a problem has occurred which appears can best be corrected through legislation. The State Division of Highways is proposing to convert a stretch of Highway 101 in Ventura County to freeway standards. This construction requires a portion of the right-of-way to extend into the Pacific Ocean in the vicinity of Seacliff. Highways has applied for a State Lands Commission permit to use the necessary tide and submerged lands. They have also applied to the U. S. Army Corps of Engineers for a permit. To date the United States has denied the permit on the basis the proposed freeway construction may move seaward the boundary between State-owned submerged lands and the outer continental shelf lands under the jurisdiction of the United States. Construction in the manner proposed involves a highway construction contract in the amount of \$18,000,000.

The location of the 3-mile offshore boundary separating outer continental shelf lands of the United States from tide and submerged lands owned by California has been disputed for many years. In 1966, the United States Supreme Court rendered a decision setting forth the criteria for establishing the boundary along the coast. In the absence of nearby permanent harborworks, islands, surfacing rocks, bays, estuaries, etc., the boundary is located 3 geographical miles seaward from the line of mean lower low water along the coast as it exists from day to day. If the shoreline is moved seaward by any means, including even the perceptible placement of fill material, the U. S. Supreme Court has determined that the offshore boundary will shift correspondingly seaward. Movement of the boundary in this fashion would cause jurisdiction over areas of land previously held by the United States to be transferred to ownership by California.

The Attorney General's office has advised that, under existing statutes, it appears no state agency has clear authority to negotiate with the federal government as to the effect any proposed fill, dredging or construction operations may have on the offshore boundary. Legislation is proposed (Exhibit "A") which would authorize the State Lands Commission to negotiate with, and with the approval of the Governor, enter into agreements with the United States, including waivers on behalf of the State, as to the effect of such construction on the offshore boundary.

This proposed legislation is due to the particular problem indicated above but will be of general application. Several additional highway projects are contemplated which also propose to utilize fill of tide and submerged lands.

SUPPLEMENTAL CALENDAR ITEM 51 (CONTD.)

Other uses of sovereign lands which might affect the offshore boundary include islands for supersonic aircraft landing fields and nuclear generating and desalination plants.

IT IS RECOMMENDED THAT THE EXECUTIVE OFFICER BE AUTHORIZED TO SUBMIT A DRAFT OF PROPOSED LEGISLATION RELATING TO THE BOUNDARY BETWEEN STATE-OWNED SUBMERGED LANDS AND OUTER CONTINENTAL SHELF LANDS FOR INTRODUCTION IN THE 1969 LEGISLATIVE SESSION.

Attachment: Exhibit "A"

EXHIBIT "A"

SENATE BILL

NO. _____

An Act to add section 6301.7 to the Public Resources Code relating to the boundary between State-owned submerged lands and outer continental shelf lands, and declaring the urgency thereof, to take effect immediately.

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

Section 1. Section 6301.7 is added to the Public Resources Code to read:

6301.7. The Commission may negotiate with, and, with the approval of the Governor, may enter into agreements with the United States, or any official, agency, licensee, permittee or lessee thereof, concerning the effect, if any, of any then existing or proposed or projected fill, dredging or construction operations or other activities on or adjacent to tide and submerged lands on the boundary between State-owned submerged lands and the outer continental shelf lands under the jurisdiction of the United States, or concerning the location of such boundary. Such agreements may include, but are not limited to, a waiver on behalf of the State of California of any State-owned submerged lands which would otherwise inure to the State as a result of any such fill, dredging or construction operations, or other activities. The Commission shall, before entering into any such agreement, find that such agreement is in the public interest.

Section 2. This act is an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of

EXHIBIT "A" (CONTD.)

Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Construction of a badly needed State highway in Ventura County for which a contract is planned to be advertised by the Department of Public Works in August, 1969 requires the placement of revetted earth fill in the Pacific Ocean. A permit for this artificial accretion to the shoreline will not be issued by the Corps of Engineers of the U. S. Army unless the State of California waives any change in the boundary between State-owned submerged lands and outer continental shelf lands under the jurisdiction of the United States which may occur under the rule laid down by the Supreme Court of the United States in United States v. California, 381 U.S. 176. Unless this act has immediate effect, and the State Lands Commission is given authority, which it now lacks, to negotiate an agreement respecting such a waiver well in advance of the time when this act would otherwise be effective, the highway project will be delayed for several months.

DIGEST

Adds section 6301.7 to Public Resources Code. Authorizes State Lands Commission to negotiate for, and with the approval of the Governor, to enter into agreements with the United States or its officers, agencies, licensee, permittee or lessee concerning the effect of any fill, dredging or construction operations or other activities, on or adjacent to tide and submerged lands on the boundary between State-owned submerged lands and outer continental shelf lands under the jurisdiction of the United States, or concerning the location of such boundary. Provides that such agreements may, without limiting scope of agreements, waive on behalf of State any increases in submerged lands resulting from such activities. Requires finding of public interest prior to entering into such agreements.

To take effect immediately, urgency statute.