

## CALENDAR ITEM

# 102

A Statewide

02/20/15

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### **CONSIDER SPONSORING STATE LEGISLATION TO AMEND THE SAN DIEGO UNIFIED PORT DISTRICT GRANTING STATUTE TO INCLUDE ALL TIDE AND SUBMERGED LANDS NOT PREVIOUSLY GRANTED, WHETHER FILLED OR UNFILLED, IN SAN DIEGO BAY AND THE PACIFIC OCEAN**

#### **SUMMARY:**

The San Diego Unified Port District (District) is a trustee of sovereign lands granted to it by the Legislature pursuant to Chapter 67, Statutes of 1962, First Extraordinary Session, as amended (Port Act). The public trust lands granted to the District include prior grants to the cities of Imperial Beach, National City, and Chula Vista, and portions of prior grants to the cities of Coronado and San Diego. This proposed legislation would expand the District's grant to include all tide and submerged lands not previously granted, whether filled or unfilled, in San Diego Bay, and the Pacific Ocean.

#### **BACKGROUND AND ANALYSIS:**

The State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The state holds these lands for the benefit of all people of the state for uses consistent with the common law Public Trust Doctrine which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation and visitor serving facilities, habitat preservation, and open space.

Since statehood, the Legislature has enacted nearly 300 statutes granting state-owned sovereign trust lands to over 80 local governmental jurisdictions to manage in trust for the benefit of the people of California. Tidelands and submerged lands granted by the Legislature to local jurisdictions are public trust assets of the state and provide special maritime, navigational, recreational, ecological, cultural, and historical benefits to the people of the region and state. Granted public trust lands are publicly owned lands subject to the protections of the common law Public Trust Doctrine, the California Constitution, and to the oversight authority of the state by and through the State Lands Commission (Commission).

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In 1962, the Legislature created the San Diego Unified Port District and granted certain filled and unfilled tidelands and submerged lands within San Diego Bay to the District to hold in trust subject to the terms of the granting statute and common law Public Trust Doctrine. Generally, the lands granted include filled and unfilled tide and submerged lands from the ordinary high water mark to the pier head line, with the remaining portions of San Diego Bay under the Commission's direct leasing authority. The legislation also required the cities of San Diego, Chula Vista, Coronado, National City, and Imperial Beach to convey to the District all the right, title and interest in and to the tidelands and submerged lands in these cities, with certain exceptions.

This proposed legislation would expand the District's grant to include all tide and submerged lands not previously granted, whether filled or unfilled, in the San Diego Bay and the Pacific Ocean. The additional tide and submerged lands proposed to be granted would be held by the District in trust for the benefit of all the statewide public for purposes of maritime and water-dependent commerce, navigation, and fisheries, and for other trust purposes. The District would own, operate, and manage the additional public trust lands in accordance with the same terms, trusts, and conditions as the tide and submerged lands previously granted to it and held in accordance with the Port Act.

The proposed legislation would require that at the end of every fiscal year the District transmit 20% of all gross revenue generated from the new trust lands to the Commission. Of this amount, 80% would be deposited into the General Fund and the remaining 20% would be deposited into the Kapiloff Land Bank Fund to reimburse Commission staff for its granted land oversight duties. This revenue sharing provision is consistent with similar provisions in previous grants and is intended to encourage the District to appropriately develop and manage the tidelands, while assuring revenues to the General Fund and for the Commission's grant oversight operating costs.

While the Port and Commission staffs are currently in the process of determining which boundaries to include, the proposed legislation may include a provision requiring the Commission, at the cost of the Port, to survey, monument, plat, and record or file with the County Recorder of San Diego, the additional tide and submerged lands granted to the Port District.

This proposed legislation is intended to assist the District in its management and development of the San Diego waterfront, provide greater efficiency for Commission and Port staff, and avoid duplicative approval requirements. Currently, applicants often need to obtain a lease from the Commission and the District. This is because structures such as piers and docks often extend beyond the District's granted land to the ungranted land under the Commission's jurisdiction. Applicants are therefore required to

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obtain a lease from the Port for a portion of the area and a second lease from the Commission for a portion of the area, even though the portion extending onto ungranted lands is often small.

The expansion of the District's grant will give the District better management control over the San Diego waterfront and enable the Commission to be more efficient in its management of sovereign lands. Concerns about revenue reductions to the General Fund from the District taking over Commission leases are addressed by the revenue sharing agreement.

**STAFF RECOMMENDATION:**

Commission staff recommends that the Commission sponsor legislation in the 2015-16 legislation session to amend the San Diego Unified Port District granting statute to include all tide and submerged lands not previously granted, whether filled or unfilled, in the San Diego Bay, and Pacific Ocean.

**RECOMMENDED ACTION:**

IT IS RECOMMENDED THAT THE COMMISSION:

1. Sponsor legislation in the 2015-16 legislation session to amend the San Diego Unified Port District granting statute to include all tide and submerged lands not previously granted, whether filled or unfilled, in the San Diego Bay, and Pacific Ocean.