

CHAPTER 639

An act to convey in trust the submerged lands in Clear Lake to the County of Lake, and to its successors, in furtherance of navigation and commerce and the fisheries and to provide for the government, management and control thereof, and to reserve certain rights to the state.

[Approved by Governor September 21, 1973 filed with
Secretary of State September 21, 1973]

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

SECTION 1. There is hereby granted and conveyed in trust to the County of Lake, and to its successors, subject to the provisions of Section 16 of this act, all the right, title, and interest of the state held by the state by virtue of its sovereignty and in and to the submerged lands in Clear Lake. The low water mark for Clear Lake has not been determined, and such determination may have to be made by judicial adjudication. Subject to such later determination, and for the purpose of the administration of this grant only, the low water mark shall be considered by the parties to this grant as being zero on the Rumsey Gauge.

SEC. 2. The submerged lands granted and conveyed pursuant to this act shall be forever held by such county and by its successors in trust for the uses and purposes, and upon the express conditions following, to wit:

(a) That the lands shall be used by the county and its successors for purposes in which there is a general statewide interest as follows:

(1) 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 lake and the area, control of dredging or filling of the lake, or both, and prevention of pollution of the lake.

(2) 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, restaurants, motels, 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.

(3) For the construction, reconstruction, repair, maintenance and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and 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.

(4) 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.

(b) The county, or its successors, shall not at any time grant, convey, give or alienate such lands, or any part thereof, to any individual, firm or corporation for any purposes whatever; provided, that the county, or its successors, may grant franchises thereon for limited periods, not exceeding 66 years, for wharves and other public uses and purposes, and may lease the lands, or any part thereof, for limited periods, not exceeding 66 years, for purposes consistent with the trusts upon which the lands are held by the state, and with the requirements of commerce and navigation, and collect and retain

rents and other revenues from such leases, franchises and privileges. Such lease or leases, franchises and privileges may be for any and all purposes which shall not interfere with commerce and navigation. Nothing contained in this paragraph (b) shall be deemed to affect the validity or term of any franchise granted by said county under the Franchise Act of 1937, and any such franchise shall be effective with respect to the lands. Nothing contained in this act is intended to affect the rights, including riparian rights, of landowners adjacent to Clear Lake.

(c) Within 10 years from the effective date of this act, the lands shall be substantially improved within the meaning of subdivision (a) of this section by the county without expense to the state, and if the State Lands Commission determinates that the county has failed to improve the lands as herein required, all right, title, and interest of the county in and to all lands granted by this act shall cease and the lands shall revert and rest in the state.

Nothing contained in this act, however, shall preclude expenditures for the development of the lands for any public purpose not inconsistent with commerce, navigation and fishery, by the state, or any board, agency or commission thereof, when authorized or approved by the county, nor by the county of any funds received for such purpose from the state or any board, agency or commission thereof.

(d) In the management, conduct, operation and control of said lands or any improvements, betterments, or structures thereon, the county or its successors shall make no discrimination in rates, tolls or charges for any use or service in connection therewith.

(e) The state shall have the right to use without charge any transportation, landing or storage improvements, betterments or structures constructed upon the lands for any vessel or other watercraft, aircraft, or railroad owned or operated by the state.

(f) There is hereby reserved to the people of the state the right to fish in the waters on the lands with the right of convenient access to the water over the lands for such purpose.

(g) There is hereby excepted and reserved in the state all deposits of minerals, including oil and gas and geothermal resources, in the lands, and to the state, or persons authorized by the state, the right to prospect for, mine, and remove such deposits from the lands.

(h) Such lands are granted subject to the express reservation and condition that the state may at any time in the future use the lands or any portion thereof for highway purposes without compensation to the county, its successors or assigns, or any person, firm or public or private corporation claiming under it, except that in the event improvements, betterments or structures have been placed upon the property taken by the state for such purposes, compensation shall be made to the person entitled thereto for the value of his interest in the improvements, betterments or structures taken or the damages to such interest.

SEC. 3. The county shall establish a separate trust fund or funds

in such manner as may be approved by the State Lands Commission and the county shall deposit in the fund or funds all moneys received directly from, or indirectly attributable to, the granted lands. An annual statement of financial condition and operations, to conform with such requirements as the State Lands Commission may prescribe, shall be submitted to the State Lands Commission each year by the county on or before September 30th of each year for the preceding fiscal year.

SEC. 4. Notwithstanding any other provision of law to the contrary, the county, acting either alone or jointly with another local or state agency, may use revenues accruing from or out of the use of the granted lands 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 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 lake and the area, control of dredging or filling of the lake, or both, and prevention of pollution of the lake

(b) 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.

(c) 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.

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

(f) 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.

(g) 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. 5. 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. 6. 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 county 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 county that such capital improvement is not in the statewide interest and benefit or is not authorized by the provisions of Section 4 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 county with the notice of its determination. In the event the State Lands Commission notifies the county that such capital improvement is not authorized, the county 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 county 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. If judgment be given against the state in such suit, no costs shall be recovered against it.

SEC. 7. At the end of every third fiscal year, beginning June 30, 1975, that portion of the county 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 maintenance of trust activities have been made, shall be deemed excess revenues; provided, that any funds deposited in a

reserve fund for future capital expenditures or any funds used to retire bond issues for the improvement or operation of the granted lands shall not be deemed excess revenue. Capital improvements of the granted lands for purposes authorized by this act may be considered as expenditures for the purpose of determining net revenues; provided, however, that if made after the effective date of this act they may be so considered only if made in accordance with Section 6 of this act.

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 county to be deposited in the trust fund and used for any purpose authorized by Section 4 of this act; provided, however, that, of the first such excess revenues which would otherwise be allocated to the county, an amount equal to the cost of the State Lands Division survey conducted at Clear Lake during the period from November 5, 1962, to December 31, 1972, shall be deducted from the county's share and deposited in the General Fund in the State Treasury.

SEC. 8. The State Lands Commission, at the request of the county, shall grant an extension of time, not to exceed 30 calendar days, for filing any report or statement required by this act which was not filed due to mistake or inadvertence.

SEC. 9. In the event that the county fails or refuses to file with the State Lands Commission 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, or fails or refuses to carry out the terms of this act, the Attorney General shall, upon the request of the State Lands Commission, bring such judicial proceedings for correction and enforcement as are appropriate, and shall act to protect any improvements to, or assets situated upon, the granted lands or derived therefrom. The State Lands Commission shall notify the Chief Clerk of the Assembly and the Secretary of the Senate within 30 days of the occurrence of such failure or refusal and of actions taken as a result thereof.

SEC. 10. The County of Lake and the State Lands Commission, on behalf of the state, are authorized to enter into boundary agreements with private parties to settle existing boundary disputes. Any such agreement shall not be a precedent for the determination of any subsequent boundary line dispute; however, any subsequent survey shall incorporate the boundary agreement entered into by the commission, the county, and a private party.

SEC. 10.1. The County of Lake, with the approval of the State Lands Commission, is hereby authorized to settle, by agreement, exchange, or quitclaim, any dispute concerning whether or not particular land within the Clear Lake area constitutes land in private or proprietary ownership by reason of title traceable to a state or federal patent or other valid source, or rather constitutes lands granted by this act. In settlement of such disputes, the county, with approval of the State Lands Commission, may, by such agreement,

exchange or quitclaim, establish boundary or compromise boundary lines between the lands granted by this act and bordering private or proprietary lands.

SEC. 10.5. The county shall identify past and future trespasses upon the lands granted by this act and take appropriate steps to terminate such trespasses.

SEC. 11. The State Lands Commission shall, from time to time, recommend to the Legislature such amendments as it may deem necessary in the terms and conditions of this act.

SEC. 12. The State Lands Commission shall, from time to time, institute a formal inquiry to determine that the terms and conditions of this act, 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. 13. The State Lands Commission shall, on or before December 31st of each year, report to the Chief Clerk of the Assembly and to the Secretary of the Senate, the full details of any transaction or condition reported to the commission pursuant to this act which it deems in probable conflict with the requirements of this act, or with any other provision of law.

SEC. 14. The Legislature reserves the right to amend, modify, or revoke, in whole or in part, the submerged lands granted and conveyed in trust pursuant to this act; provided, that the state shall thereupon assume and be bound by all lawful transactions and obligations related to such lands entered into or created by the county during its holding of such lands.

SEC. 15. The Attorney General, on request by resolution of either house of the Legislature, or upon formal request of the State Lands Commission made only after a noticed public hearing at which the grantee has been given an opportunity to fully express any disagreement with the commission's findings or to describe any extenuating circumstances causing the violation, shall bring an action in the Superior Court in the County of Lake to declare that the grant under which the county holds such submerged lands is revoked for gross and willful violation of the provisions of this act or other legislative enactment, or to compel compliance with the terms and conditions of the grant and any other provision of law, including, but not limited to, this act.

SEC. 16. The grant and conveyance in trust of submerged lands to the county provided for by this act shall become effective only upon the written acceptance of such grant and conveyance by the county prior to September 1, 1974.

SEC. 17. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.