
THIRD READING

Bill No: AB 1390
Author: Boerner Horvath (D)
Amended: 8/26/21 in Senate
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 9-0, 6/29/21
AYES: Stern, Jones, Allen, Eggman, Grove, Hertzberg, Hueso, Laird, Limón

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 75-0, 5/24/21 - See last page for vote

SUBJECT: State lands: school and lieu lands

SOURCE: California State Lands Commission

DIGEST: This bill makes various changes to statute related to the selling and leasing of specified lands by the State Land Commission (SLC), including allowing SLC to sell or lease school lands without maintaining an access easement if it is in the best interests of the state and removing barriers to land acquisition.

ANALYSIS:

Existing law:

- 1) Establishes SLC in the California Natural Resources Agency, consisting of the Controller, the Lieutenant Governor, and the Director of Finance.
- 2) Establishes the School Land Bank Act (Act), which places “school lands” into a statutory trust. School lands are land or interests in land granted to the state by Congress in 1853 to provide support for public schools. The Act:
 - a) Provides that it is in the best interest of the state that school lands be managed as a revenue source and generally credits all revenues, monies, and remittances from school and indemnity lands to the Teachers’ Retirement

Fund for the benefit of the California State Teachers' Retirement System (CalSTRS).

- i) Requires SLC to take all action necessary to fully develop school lands, indemnity interests, and attendant mineral interests into a permanent and productive resource base.
- ii) Authorizes SLC to acquire real property or any interest in real property with the objective of facilitating management of school lands for the purpose of generating revenue.
- b) Establishes the School Land Bank Fund (Fund) and designates SLC as the Fund's trustee. SLC must deposit all net revenues, monies, and remittances from the sale of school lands into the State Treasury to the credit of the Fund. The Fund is continuously appropriated, without regard to fiscal years, to SLC for the purposes of the Act.
- c) Provides that acquisition costs and expenses, in addition to the purchase price to be paid, may be payable from the Fund, provided that those costs shall not exceed five percent of the expended funds.
- 3) Requires SLC to prepare a master plan for all school and lieu lands under its jurisdiction, as specified.
- 4) Requires, after the survey of any township by the U.S., SLC to obtain a statement from the U.S. Land Office showing whether the 16th and 36th sections therein belong to the state.
- 5) Prohibits the sale, lease, or renting of state land which provides the only convenient means of access to other lands owned by the state without reserving an access easement to the state and its successors, as specified.
- 6) Requires, before any disposition of state lands to a private party or other governmental agency, the intended recipient of such lands to submit a general plan, as specified, for the use of the subject lands with the review and comments of other interested state agencies.

This bill makes various changes to statute related to the selling and leasing of SLC's school lands. Specifically, this bill:

- 1) Repeals the requirement that SLC prepare a master plan for all school and lieu lands under its jurisdiction.

- 2) Repeals the requirement that SLC obtain, after the survey of any township by the U.S., a statement from the U.S. Land Office showing whether the 16th and 36th sections therein belong to the state.
- 3) Provides that SLC is not required to reserve an easement on school lands if it determines that selling the school lands without the easement is in the best interests of the state.
- 4) Repeals the requirement that the intended recipient of state lands to be disposed of by SLC submit a general plan for the use of the subject lands, as specified.
- 5) Requires SLC, at least 10 days before SLC authorizes a conveyance of state lands to a private party or other governmental agency, to notify the chair of the relevant policy committees of the Legislature and relevant members of the Legislature, as specified, and make the information available on SLC's internet website.
- 6) Requires SLC to include in its quarterly report to the Teachers' Retirement Board and annual report to the Legislature and Governor acquisitions under the Act, including a summary of down payments and any other transaction costs.
- 7) Eliminates the five percent cap on costs and expenses associated with acquisitions under the Act.
- 8) Provides that the costs and expenses associated with acquisitions include, but are not limited to, the fees and expenses of appraisals, escrow, broker's fees, title insurance, and other third-party costs.
- 9) Authorizes SLC to delegate authority to SLC's executive officer to make a nonrefundable down payment for a potential acquisition of real property or any interest in real property.

Background

After California achieved statehood, the federal government granted approximately 5.5 million acres of land to California to be used for the support of schools. This land consisted of the 16th and 36th section of each township. Approximately 90 percent of the school lands were sold prior to SLC's creation in 1938. Proceeds were used primarily to pay for school construction. SLC retains jurisdiction over approximately 458,843 acres of fee-owned school lands and 790,000 acres of reserved mineral interests.

In 1984, the Legislature passed the Act, directing SLC to retain remaining school lands and manage them to generate revenue for CalSTRS. School lands can be difficult to manage because they are broken up into noncontiguous, square-mile parcels in very isolated desert and forest areas with little value for revenue generating purposes. To address this, the Act authorized SLC to sell the isolated, non-economic school lands and use the proceeds to acquire other real property that will generate additional revenues to benefit California's retired teachers.

AB 982 (Skinner, Chapter 485, Statutes of 2011) further reformed the school lands program by directing SLC to partner with the federal government to facilitate land exchanges in the California Desert Conservation Area to consolidate school land parcels into contiguous holdings that are suitable for renewable energy related projects.

Comments

This bill repeals obsolete statutes. This includes repealing a requirement that SLC obtain specified information following federal surveys of townships. According to SLC, the federal government has completed these surveys and will not conduct any more, making the requirement obsolete. This bill also eliminates a requirement that SLC prepare a master plan for school and lieu lands. This requirement effectively duplicates a separate annual reporting requirement that details school lands management.

This bill also eliminates an outdated requirement that recipients of state lands submit a general plan for those lands to SLC and the Legislature and instead requires SLC to notify the Legislature 10 days before SLC authorizes the conveyance of the lands. This would occur at the same time SLC posts the agenda for the meeting in question.

This bill grants SLC discretion over the need for access easements on school lands. This bill provides that SLC is not required to reserve an easement on school lands if it determines that selling the school lands without the easement is in the best interests of the state. According to SLC, this change seeks to address concerns that access easements, in some cases, might damage biological or cultural resources important to Native American tribes. SLC sees this as an issue of growing concern as it seeks to implement the Administration's policy, released in September 2020, regarding Native American Ancestral Lands, to prioritize tribal purchase of state lands that are in excess of state needs.

This bill seeks to remove barriers to school lands acquisitions. It does this by removing the 5% cap on associated costs, clarifying what is included in that term,

and authorizing SLC to delegate authority to its executive officer to make down payments for potential acquisitions. According to SLC, the 5% cap on associated costs is arbitrary and undermines its competitiveness in the market because SLC must rely on sellers to cover costs that exceed the cap. Further, delegating down payment authority would allow SLC to pursue acquisitions in a more timely fashion. Staff would not need to wait until a SLC meeting to take early action on an acquisition.

Given SLC's mandate to manage the school lands to generate revenue for CalSTRS, it is not unreasonable to remove barriers that limit SLC's competitiveness in acquiring revenue generating properties for this program. Presumably, SLC's board members, including the Director of the Department of Finance and the State Controller, as heads of agencies providing oversight over the state's finances, would carefully oversee the expanded acquisition authorities. This bill also provides opportunities for Legislative review and oversight by requiring SLC report on acquisitions.

SLC is preparing a strategy to guide acquisition decisions. SLC is developing a plan for investing School Land Bank Fund monies in California real estate, with the goal of acquiring new revenue-generating properties for the Fund. The investment strategy will yield a report that is expected to help staff identify, evaluate, and compare land investment options in California and the short and long-term benefits and risks associated with each type of investment option. The report will also provide a rating system of qualifying factors to assist in ranking the suitability of each land investment that is proposed for acquisition and to compare competing properties. SLC expects to have a final report in early 2021.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, unknown but potentially significant cost pressure (School Land Bank Fund [SLBF]) for land acquisitions that otherwise would not occur. Any costs would likely be offset by lease revenue and other investment income.

SUPPORT: (Verified 8/26/21)

California State Lands Commission (source)
Office of Lieutenant Governor Eleni Kounalakis

OPPOSITION: (Verified 8/26/21)

None received

ARGUMENTS IN SUPPORT: According to the author, “AB 1390 provides the State Lands Commission with additional tools to acquire and steward a category of public lands, known as school lands, which have been entrusted to the Commission to generate revenue for retired teachers and facilitate renewable energy development projects. The bill would remove constraints that make it difficult for the Commission to invest in property to generate revenue for CalSTRS. Removing these constraints, would also better position the Commission to avail itself of opportunities to work with the federal government to facilitate renewable energy projects, which would help California transition to a clean energy future, and help contribute to the state and federal 30 by 30 policies.”

According to SLC, the sponsor, “This bill would help the Commission generate revenue to support retired teachers. Specifically, it would provide the Commission with additional tools to acquire and steward a category of public lands, known as school lands, that Commission manages to generate revenue for retired teaches and facilitate renewable energy development.”

ASSEMBLY FLOOR: 75-0, 5/24/21

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Bigelow, Flora, Gallagher

Prepared by: Catherine Baxter / N.R. & W. / (916) 651-4116
8/31/21 9:48:01

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