

AMENDED IN SENATE MAY 26, 2021

SENATE BILL

No. 231

Introduced by Senator McGuire
(Coauthor: Assembly Member Wood)

January 19, 2021

An act to add Section 118.9 to the Streets and Highways Code, relating to the Department of Transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 231, as amended, McGuire. Department of Transportation: transfer of property: Blues Beach property.

Existing law vests the Department of Transportation with full possession and control of all state highways and all property and rights on property acquired for state highway purposes. Various provisions of existing law specifically provide for the acquisition, transfer, and use of property owned by the department.

This bill would authorize the department, upon terms, standards, and conditions approved by the California Transportation Commission, to transfer the Blues Beach property located in the unincorporated community of Westport in the County of Mendocino to a qualified nonprofit corporation, which the bill would define as a nonprofit corporation that is organized by one or more *specified* California Native American tribes for the purpose of environmental protection. The bill would authorize the department to enter into a cooperative agreement with a qualified nonprofit corporation that is transferred the Blues Beach property to provide funding for future maintenance of the property. The bill would require a nonprofit corporation that is transferred the Blues Beach property to be responsible for the future maintenance of the property, would require the property to only be used for natural habitat

purposes, and would require the property to revert to the department if the property is not maintained.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 118.9 is added to the Streets and
2 Highways Code, to read:

3 118.9. (a) For purposes of this section, the following
4 definitions apply:

5 (1) (A) Except as provided in subparagraph (B), “Blues Beach
6 property” means the property that meets the following description:

7 (i) The department acquired the property for state highway
8 purposes.

9 (ii) The property is located on State Highway Route 1 between
10 post mile 73.88 and post mile 75.00 in the unincorporated
11 community of Westport in the County of Mendocino and is
12 immediately west and adjacent to State Highway Route 1.

13 (iii) The property is approximately 172 acres in size.

14 (B) “Blues Beach property” does not include property that is
15 part of the highway operating right of way.

16 (2) “California Native American tribe” means the Sherwood
17 Valley Band of Pomo Indians, the Round Valley Indian Tribes, or
18 the Coyote Valley Band of Pomo Indians.

19 ~~(2)~~

20 (3) “Qualified nonprofit corporation” means a nonprofit
21 corporation that is qualified pursuant to Section 501(c)(3) of the
22 Internal Revenue Code and is organized by one or more California
23 Native American tribes for the purpose of environmental
24 protection.

25 (b) The department may, upon terms, standards, and conditions
26 approved by the commission, transfer the Blues Beach property
27 to a qualified nonprofit corporation in accordance with this section.

28 (c) The Blues Beach property shall be maintained as a natural
29 habitat.

30 (d) (1) As a condition to the transfer of the Blues Beach
31 property pursuant to subdivision (b), the department may enter
32 into a cooperative agreement with the transferee to provide funding
33 for the future maintenance of the property. In determining the

1 amount of the funding provided, the department shall consider the
2 costs of maintaining the property and shall offset from the amount
3 of those costs any benefit or value received by the transferee as a
4 result of the transfer.

5 (2) The department shall provide the fiscal and transportation
6 policy committees of the Legislature with at least 30 days prior
7 written notice of the transfer and cooperative agreement, and the
8 amount of any funding in accordance with the transfer and
9 cooperative agreement, to facilitate the Legislature's review of the
10 transfer.

11 (3) Funding provided as part of a transfer agreement shall be
12 limited to a single payment.

13 (e) (1) The qualified nonprofit corporation to which the
14 department transfers the Blues Beach property shall assume the
15 long-term responsibility for the future maintenance of the property.

16 (2) (A) If the qualified nonprofit corporation fails to maintain
17 the Blues Beach property in the manner required by this section,
18 or if the qualified nonprofit corporation ceases to exist, the property
19 shall automatically revert to the department.

20 (B) If the Blues Beach property reverts to the department
21 pursuant to this paragraph, any remaining funds from the original
22 transfer pursuant to subdivision (b) shall also revert to the
23 department.

24 (C) Any costs, including legal costs, associated with reversion
25 pursuant to this paragraph shall not accrue to the department.

26 (f) (1) All deeds conveying the Blues Beach property in
27 accordance with this section shall include a restriction limiting the
28 use of the property to natural habitat purposes.

29 (2) All deeds conveying the Blues Beach property in accordance
30 with this section and deeds related to a transfer or assignment of
31 property under this section shall be filed with the county recorder's
32 office in the county where the property is located.

33 (g) A qualified nonprofit corporation to which the department
34 transfers the Blues Beach property pursuant to this section shall
35 not do any of the following:

36 (1) Transfer or assign the Blues Beach property to another entity
37 without approval from the department and compliance with this
38 section.

39 (2) Transfer or use the property for any other purpose than the
40 purposes authorized in this section.

- 1 (3) Subdivide the property.
2 (4) Allow the property to be used to obtain development
3 approval for other property or to provide mitigation for the
4 development of other property.
5 (5) *Charge monetary fees to access the property.*
6 (6) *Permit commercial or retail development on the property.*
7 (7) *Permit gaming on the property.*
8 (h) A qualified nonprofit corporation to which the department
9 transfers the Blues Beach property pursuant to this section shall
10 allow public access to the Blues Beach property consistent with
11 the requirement to maintain the property as a natural habitat but
12 may restrict public access to any portion of the property that
13 contains a Native American burial-ground. ~~ground~~ *and shall restrict*
14 *public access from sunset to sunrise.*