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AB-1832 Waters subject to tidal influence: hard mineral extraction. (2021-2022)

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Assembly Bill No. 1832

CHAPTER 433

An act to amend Section 6303 of, and to repeal and add Section 6900 of, the Public Resources Code, relating to public resources.

[Approved by Governor September 19, 2022. Filed with Secretary of State September 19, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1832, Luz Rivas. Waters subject to tidal influence: hard mineral extraction.

Under existing law, the State Lands Commission has jurisdiction over tidelands and submerged lands of the state. Existing law also makes a local trustee of granted public trust lands, as defined, a trustee of state lands and confers upon that trustee specified powers regarding the leasing or granting of rights or privileges in relation to those lands. When it appears to be in the public interest, existing law authorizes the commission to grant by competitive bidding leases for the extraction of minerals other than oil and gas from tidelands and submerged lands of the state under specified circumstances.

This bill would repeal that authorization and would instead prohibit the commission or a local trustee of granted public trust lands from granting leases or issuing permits for the extraction or removal of hard minerals, as defined, from state waters subject to tidal influence, except as provided. The bill would also set forth legislative findings and declarations and make a conforming change.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known and may be cited as the California Seabed Mining Prevention Act.

SEC. 2. The Legislature finds and declares all of the following:

(a) Seabed mineral mining is not consistent with the public interest, public trust, or public rights to navigation and fishing that are three key principles of the common law public trust doctrine embodied in the California Constitution: the right to fish, pursuant to Section 25 of Article I, the right to navigate, pursuant to Section 3 of Article X, and the right to access public tidelands and submerged lands, pursuant to Section 4 of Article X.

(b) Seabed mining poses an unacceptably high risk of damage and disruption to the marine environment of the state. It is in the best interest of the people of California that leasing for hard mineral mining at the seafloor be prohibited.

(c) California marine waters are home to rich, diverse, and globally significant ecosystems, including the deepwater column seafloor. These environments host millions of species, a biodiversity that may even be richer than tropical rainforests. The extent

of this diversity is still largely unknown, which makes its disruption by industrial-scale mining a perilous choice.

(d) The seafloor has provided compounds to help treat damage, from cancer to inflammation and nerve damage, and compounds used for analyzing illness.

(e) California's deepwater column and seafloor are critically important to people: indigenous, settler, and immigrant communities maintain strong spiritual, cultural, and economic connections to the deep ocean.

(f) Seabed mining could erode the sovereignty and harm the ancestral lands and waters of California Native American tribes.

(g) Seabed mining poses risks to the state's existing ocean-dependent industries, including commercial fishing, recreational fishing, and tourism.

(h) The damage from seabed mining could take several forms. Large machinery could remove or destroy entire communities of sponges, corals, kelp forests, and other marine life. Sediment clouds, some capable of traveling long distances, could smother or negatively impact the feeding and reproduction of other marine life, including plankton, benthic fish like halibut and groundfish, and pelagic fish like salmon, tuna, billfish, and forage species. These sediment plumes as well as the associated noise may negatively impact whales, dolphins, and other marine mammals throughout the region. Also at risk are the breathtaking beaches, tide pools, and rocky reaches that help support a multibillion-dollar tourism industry.

(i) The legislatures of the States of Oregon and Washington have both passed analogous legislation to prohibit seabed mining in their state waters, in 1991 and 2021, respectively. The call for a global moratorium on seabed mining has grown, arising from indigenous peoples, citizens, scientists, and companies in technology and car manufacturing that require hard minerals. In June of 2021, the European Parliament adopted a resolution in support of a moratorium on seabed mining. In September 2021, 81 governments and governmental agencies attending the International Union for Conservation of Nature (IUCN) World Conservation Congress voted in favor of a moratorium.

(j) California state waters do not represent a marketable source for battery metals, the emerging justification for extraction interest at the seafloor globally. The most likely interest would occur for two different types of extraction in two distinct geographic areas: (1) California's north coast, in the hunt for gold, titanium, and other precious and semiprecious metals; and (2) the Southern California Bight, searching for phosphorites typically used in industrial fertilizer and not currently in short supply.

(k) Leasing authority for California's tidelands and submerged lands is held with the State Lands Commission, except for those instances where the Legislature has granted in trust the state's sovereign lands to local governments to manage on behalf of the state. In the absence of legislation, California is required to accept applications for hard mineral exploration and extraction leases along its coast, and to consider those applications on a case-by-case basis.

(l) An estimated 0.01 percent of the deep seafloor has been explored worldwide. History is fraught with hard lessons learned about destroying what we do not know or understand. The issue of seabed mining emphasizes the need to take a precautionary approach, both in our state and as a global community.

SEC. 3. Section 6303 of the Public Resources Code is amended to read:

6303. (a) The commission may grant the privilege of depositing material upon or removing or extracting material from swamp, overflowed, marsh, tide or submerged lands, beds of navigable streams, channels, rivers, creeks, bays, or inlets owned by the state, for improvement of navigation, reclamation, flood control, or, for purposes connected with the erection or maintenance of structures authorized pursuant to Article 2 (commencing at Section 6321), upon those terms and conditions and for that consideration as will be in the best interests of this state.

(b) When a contractor or permittee has a contract with or a permit from the federal government or any authorized public agency to dredge swamp, overflowed, marsh, tide or submerged lands, beds of navigable streams, channels, rivers, creeks, bays, or inlets for the improvement of navigation, reclamation, or flood control, the commission may, if it is in the best interests of the state, allow the contractor or permittee to have sand, gravel, or other spoils dredged from the sovereign lands of the state located within the areas specified in the contract or permit upon those terms and conditions and for such consideration as will be in the best interests of the state, notwithstanding Section 6992 with respect to competitive bidding. The amounts of sand, gravel, or other spoils so removed from sovereign lands shall not exceed those specified in the contract or permit.

SEC. 4. Section 6900 of the Public Resources Code is repealed.

SEC. 5. Section 6900 is added to the Public Resources Code, to read:

6900. (a) Notwithstanding Section 6890, the commission or a local trustee of granted public trust lands shall not grant leases or issue permits for the extraction or removal of hard minerals from state waters subject to tidal influence, except for waters situated east of the Carquinez Bridges on Interstate 80.

(b) (1) For purposes of this section, "hard minerals" means natural deposits of valuable minerals, including, but not limited to, metals and placer deposits of metals, nonmetallic minerals, gemstones, ores, gold, silver, copper, lead, iron, manganese, silica, chrome, platinum, tungsten, zirconium, titanium, garnet, and phosphorus.

(2) "Hard minerals" does not include rock, gravel, sand, silt, coal, oyster shells, or hydrocarbons.

(c) This section does not prohibit scientific research or collections conducted by, or on behalf of, an educational, scientific, or research institution or a governmental agency.