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SB-231 Department of Transportation: transfer of property: Blues Beach property. (2021-2022)

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Senate Bill No. 231

CHAPTER 289

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

[Approved by Governor September 24, 2021. Filed with Secretary of State September 24, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 231, 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 at no cost 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 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 to provide public access, maintain natural habitat, and protect Native American cultural resources, and would require the property to revert to the department if the property is not maintained.

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

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

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

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

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

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

(ii) The property is located along State Route 1 between post mile 73.65 and post mile 75.62 in the unincorporated community of Westport in the County of Mendocino.

(B) "Blues Beach property" does not include property that is part of the highway operating right of way.

(2) "California Native American tribe" means the Sherwood Valley Band of Pomo Indians, the Round Valley Indian Tribes, or the Coyote Valley Band of Pomo Indians.

(3) "Qualified nonprofit corporation" means a nonprofit corporation that is qualified pursuant to Section 501(c)(3) of the Internal Revenue Code and is organized by one or more California Native American tribes for the purpose of environmental protection, including the protection of Native American cultural resources. A qualified nonprofit corporation may include other Native American tribes besides California Native American tribes if their participation in the nonprofit is approved by a majority of the California Native American tribes organizing the nonprofit.

(b) The department may, upon terms, standards, and conditions approved by the commission, transfer the Blues Beach property at no cost to a qualified nonprofit corporation in accordance with this section.

(c) The conditions of the transfer of the Blues Beach property pursuant to subdivision (b) shall require the Blues Beach property to be maintained as a natural habitat and for protection of Native American cultural resources.

(d) As a condition to the transfer of the Blues Beach property pursuant to subdivision (b), the department may enter into an agreement with the transferee on a written plan to manage the Blues Beach property in accordance with this section.

(e) The department shall provide the fiscal and transportation policy committees of the Legislature with at least 30 days prior written notice of the transfer to facilitate the Legislature's review of the transfer.

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

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

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

(g) (1) All deeds conveying the Blues Beach property in accordance with this section shall include a restriction limiting the use of the property to public access, natural habitat, and the protection of Native American cultural resources.

(2) All deeds conveying the Blues Beach property in accordance with this section and deeds related to a transfer or assignment of property under this section shall be filed with the county recorder's office in the county where the property is located and shall be consistent with Section 30609.5 of the Public Resources Code.

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

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

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

(3) Subdivide the property.

(4) Allow the property to be used to obtain development approval for other property or to provide mitigation for the development of other property.

(5) Charge monetary fees to access the property.

(6) Permit commercial or retail development on the property.

(7) Permit gaming on the property.

(i) A qualified nonprofit corporation to which the department transfers the Blues Beach property pursuant to this section shall allow public access to the Blues Beach property consistent with the requirement to provide public access, maintain natural habitat, and protect Native American cultural resources, but may restrict public access to any portion of the property that contains a Native American burial ground and shall restrict public access from sunset to sunrise. The restriction on public access from sunset to sunrise does not apply to Native American cultural activities, including, but not limited to, conducting cultural activities, harvesting native plants, and fishing.

(j) The Legislature finds and declares both of the following:

(1) This section serves the public purpose of conserving highly vulnerable natural and cultural resources that must be preserved and protected from damage due to unauthorized activities.

(2) Due to the remoteness of the Blues Beach property and the exceptional vulnerability of the resources, it is necessary to restrict public coastal access to the hours between sunrise and sunset.