

An act to amend Sections 16, 17, and 18 of, and to add Sections 18.3, 18.5, and 19.5 to, the San Diego Unified Port District Act (Chapter 67 of the First Extraordinary Session of the Statutes of 1962), relating to the San Diego Unified Port District.

## LEGISLATIVE COUNSEL'S DIGEST

AB 2783, as amended, Alvarez. San Diego Unified Port District.

(1) The San Diego Unified Port District Act authorizes the establishment of the San Diego Unified Port District for the acquisition, construction, maintenance, operation, development, and regulation of harbor works and improvements for the harbor of San Diego and for the promotion of commerce, navigation, fisheries, and recreation. The act establishes the board of commissioners of the port district and vests it with specified authority and responsibilities regarding the management of the district.

This bill would require the board to adopt a code of ethics and to accept and respond to ethics complaints, as specified. The bill would require the board to appoint a board of ethics to provide independent ethics advice to the board, as specified. The bill would require the board to submit ethics complaints to the board of ethics, as specified. The bill would require the board of ethics, upon the conclusion of an investigation into the conduct of a commissioner, to provide all findings from the investigation to the city that appointed the commissioner that was subject to the investigation.

~~This bill would prohibit a commissioner from lobbying, contracting with, or being employed by the board or the district for 2 years after serving as a commissioner. The bill would require the board to publish a report regarding its lobbying activities, as specified.~~

~~(2) The act requires the City of San Diego to appoint 3 commissioners and other specified cities to appoint one commissioner each to the board of commissioners. The act specifies a commissioner's term is for 4 years, as specified.~~

~~This bill would limit the commissioners to 3 terms. The bill would authorize a commissioner to continue to serve beyond an expired term for 6 months until a replacement is appointed. The bill would require that one commissioner appointed by the City of San Diego reside *to make a good faith attempt to appoint one commissioner that resides* in one of 4 5 specified neighborhoods within that city.~~

(32) The act requires the board of commissioners to annually elect from its members a chairperson, a vice chairperson, and a secretary. The act requires the board of commissioners to make rules and regulations for its own government and procedure. Existing law, the Ralph M. Brown Act, requires each legislative body of a local agency to provide notice of the time and place for its regular meetings and also requires that all meetings of a legislative body be open and public, and that all persons be permitted to attend unless a closed session is authorized. The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies. Existing law requires the board of commissioners to comply with those acts, except as specified.

~~This bill would prohibit a commissioner from being elected chairperson or vice chairperson a second time, except as specified. *The bill would prohibit a commissioner from serving as chairperson unless the commissioner has served or previously served on the board for at least one year.* The bill would clarify that the board of commissioners, if it acts to censure or strip a commissioner of their duties~~

~~based on alleged unethical or unlawful conduct disclose to the public all documents and evidence related to the alleged conduct in accordance with the requirements of the Ralph M. Brown Act and the California Public Records Act. The bill would require the board, before acting to censure or strip a commissioner of their duties, to provide 72 hours' notice of the proposed action to censure or strip a commissioner of their duties to the city council and mayor of the city that appointed the commissioner.~~

~~(4) The act prohibits a commissioner from receiving a salary from the district and requires a commissioner to be reimbursed for necessary traveling and other expenses incurred while engaged in the performance of the commissioner's duties.~~

~~This bill would authorize a commissioner appointed or reappointed on or after January 1, 2025, to receive per diem compensation, as specified. The bill would prohibit a commissioner appointed or reappointed on or after January 1, 2025, from receiving a vehicle allowance.~~

~~This bill would require the district to compensate a commissioner \$100 for each day that the commissioner attends a meeting or performs duties related to the district, as specified.~~

~~(5 3) The act *bill* requires the board to establish a Maritime Industrial Impact Fund (MIIF) and include up to 2 percent of gross maritime industrial revenue, as specified, to address off-tideland impacts from maritime activities that have direct relationship or nexus with maritime industrial activities on-tidelands. to draft a master plan for harbor and port improvement and for the use of all the tidelands and submerged lands under the district's jurisdiction.~~

~~This bill would require the board, in implementing the master plan, to include funding for cooperative infrastructure and capital projects that directly address maritime industrial impacts by the port in cities that host maritime terminals, as specified. In addition to that funding, this bill would require the board to dedicate 1% of the port's nontax revenue, as specified, for those cooperative infrastructure and capital projects. The bill would also require the board to dedicate 1% of the port district's eligible rental income, as specified, to converting industrial properties in disadvantaged communities, as defined, within the district to open space.~~

~~By requiring the board to provide this funding, this bill would impose a state-mandated local program.~~

~~This bill would make legislative findings and declarations as to the necessity of a special statute for the San Diego Unified Port District.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

## DIGEST KEY

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

## BILL TEXT

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

**SECTION 1.**

~~Section 16 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), *Session*) is amended to read:~~

**~~Sec. 16.~~**

~~(a) The district shall be governed by a board of commissioners who shall be known as "port commissioners." Each city council, respectively, of the cities that are included in the district pursuant to this act shall appoint the commissioner or commissioners to which it is entitled, pursuant to this section, to represent that particular city on the board. The commissioners shall be residents of the respective cities they represent at the time of their appointments, and during the term of their office. All of the powers and duties conferred on the district shall be exercised through the board of commissioners.~~

~~(b) The City of Chula Vista, the City of Coronado, the City of Imperial Beach, and the City of National City shall each appoint one commissioner.~~

~~(c) The City of San Diego shall appoint three commissioners. At the time of appointment and during the term of office, each commissioner shall be a resident of the City of San Diego. At *The City of San Diego shall make a good faith attempt to appoint at least one commissioner shall reside that resides* in one of the City of San Diego neighborhoods of Barrio Logan, Logan Heights, Shelltown, Sherman Heights, or Southcrest.~~

**~~SEC. 2.~~**

~~Section 17 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Section 1 of Chapter 171 of the Statutes of 1982, is amended to read:~~

**~~Sec. 17.~~**

~~(a) The term of each commissioner shall be for four years, except as provided in this section. A commissioner shall serve no more than three terms. A commissioner may continue to serve beyond an expired term for up to six months until a replacement has been appointed.~~

~~(b) Any vacancy shall be filled by appointment by the city council of the city from which the vacancy has occurred. Any appointment to fill a vacancy during the term of a commissioner shall be for the unexpired term. Each commissioner, before entering upon the duties of the office, shall take and subscribe the oath as provided in Section 1360 of the Government Code, and a certificate of the same shall be filed with the city clerk of the city from which the commissioner shall have been appointed, and a copy of which shall be filed with the district. A commissioner may be removed from the board by a majority vote of the city council that appointed the commissioner.~~

~~(c) A commissioner shall not lobby, contract with, or be employed by the board or the district for two years after serving as a commissioner.~~

**SEC. 13.**

Section 18 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Section 1 of Chapter 480 of the Statutes of 1996, is amended to read:

**Sec. 18.**

(a) Immediately after their appointment, the commissioners shall enter upon the performance of their duties. The board shall annually elect one of its members as chairperson and another as vice chairperson, and shall also elect annually a secretary, who may or may not be a member of the board. *A commissioner shall not serve as chairperson unless the commissioner has served or previously served on the board for at least one year.* A commissioner who has served as chairperson shall not be elected chairperson for a second time unless all the commissioners have already served as the chairperson. A commissioner who has served as vice chairperson shall not be elected vice chairperson for a second time unless all the commissioners have already served as the vice chairperson. A majority shall constitute a quorum for the transaction of business. The board shall make rules and regulations for its own government and procedure, shall hold at least one regular meeting each month, and may hold any special meetings it deems necessary.

~~(b) If the board acts to censure or strip a commissioner of their duties based on alleged unethical or unlawful conduct, then the board shall disclose to the public all documents and evidence related to the alleged conduct in accordance with the requirements of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) and the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).~~

~~(c) Before the board acts to censure or strip a commissioner of their duties, the board shall provide at least 72 hours' notice of the proposed action to censure or strip a commissioner of their duties to the city council and the mayor of the city that appointed the commissioner.~~

~~(d) (1) The commissioners shall be officers of the district and shall receive no salaries but shall be reimbursed for necessary traveling and other expenses incurred while engaged in the performance of their duties.~~

~~(2) A commissioner appointed or reappointed on or after January 1, 2025, may receive per diem compensation. The rate of per diem compensation shall not exceed the rate provided to a Member of the Legislature. A commissioner shall not receive more than 205 days of per diem compensation in a calendar year.~~

~~(3) A commissioner appointed or reappointed on or after January 1, 2025, shall not receive a vehicle allowance.~~

~~(2) In addition to the reimbursements described in paragraph (1), a commissioner shall, in accordance with Section 53232.1 of the Government Code, receive compensation of one hundred dollars (\$100) for each day the commissioner attends a meeting or performs duties related to the district. A commissioner shall not receive more than six hundred dollars (\$600) in a month pursuant to this paragraph.~~

#### **~~SEC. 4.~~**

~~Section 18.3 is added to the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), to read:~~

#### **~~Sec. 18.3.~~**

~~(a) The board shall publish a report that contains both the following:~~

~~(1) The name of each lobbyist employed or contracted by the district.~~

~~(2) The amounts the district paid to each lobbyist.~~

~~(b) The board shall update the report required by subdivision (a) every 90 days and shall make the report available to the public by posting it on the district's internet website.~~

~~(c) For purposes of this section, "lobbyist" has the same meaning as provided in Section 82039 of the Government Code.~~

## **SEC. 25.**

Section 18.5 is added to the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), to read:

### **Sec. 18.5.**

(a) The board shall adopt a code of ethics.

(b) The board shall accept and respond to ethics complaints against a commissioner.

(1) The board shall establish a board of ethics, which shall provide independent ethics advice to the board involving alleged commissioner's violation of the District's code of ethics, Government Code Sections 1090, 87100, 87103 or other regulations and laws addressing ethics.

(2) The board of ethics shall consist of three members. The board shall appoint the members of the board of ethics during a properly noticed public meeting. The board shall not appoint a commissioner or a district employee to the board of ethics, but the District's ethics officer and appropriate District employees shall advise the board of ethics.

(3) The members of the board of ethics shall have diverse perspectives and ~~areas of expertise in implementation of ethics laws and regulations, have experience appropriate for the review of ethical matters,~~ and be of good general reputation and character.

(4) The board of ethics shall meet at least once per year ~~for an organizational meeting. It shall~~ and then meet as needed to address advisory questions pertaining to the application of the ~~board's~~ District's code of ethics and to address an ethics complaint submitted to the board, if any.

(d) (1) The board shall submit an ethics complaint alleged against a commissioner to the board of ethics during an open meeting. The board may submit any other ethical matter to the board of ethics. The board and the board of ethics shall treat a matter submitted to the board of ethics as confidential until the board responds pursuant to paragraph (3).

(2) The board of ethics shall provide advice on an ethics complaint to the board during a closed meeting.

(3) The board shall respond to an ethics complaint in a public meeting after receiving advice from the board of ethics. The board shall make public the advice provided to the board within 24 hours of the conclusion of the public meeting during which it responds to the ethics complaint.

(4) Upon the conclusion of an investigation into the conduct of a commissioner, the board of ethics shall provide all findings from the investigation to the city that appointed the commissioner that was subject to the investigation.

(5) The board shall comply with the requirements of paragraphs (2) and (3) to the extent permissible under the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) and the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

## **SEC. 36.**

Section 19.5 is added to the San Diego Unified Port District Act (Chapter 67 of the Statutes of ~~1962~~, 1962, First Extraordinary Session), to read:

### **Sec. 19.5.**

(a) In order to protect and enhance the economic benefits of import and export activities for the San Diego region and the state, while also addressing the associated environmental impacts to certain communities from those maritime industrial activities, it is necessary to create a fund to provide a financing mechanism for projects that address the off-tideland impacts as a result of the presence of nearby on-tideland maritime industry and terminals.

(b)(1) The board shall establish a Maritime Industrial Impact Fund (MIIF) in-lieu of the fund established by the Board of Port Commissioners Policy No. 773 to address off-tideland impacts. The minimum annual funding of the MIIF shall be two percent (2%) of the District's gross maritime industrial revenue. The board may allocate additional funds to the MIIF at its discretion. MIIF projects are not precluded from receiving additional funding from other sources. Funding of the MIIF shall be on a fiscal year basis. If, due to extraordinary circumstances, including but not limited to a recession, pandemic, natural disaster or other financial constraints, the District is unable to fund the MIIF in a particular fiscal year, the District shall fund the MIIF for that fiscal year within the next five (5) fiscal years.

(2) The MIIF shall be used to fund projects to mitigate off-tidelands impacts from the District's maritime industrial and terminal activities. Electrification projects and human-operated zero-emissions cargo handling equipment and infrastructure to support human-operated zero-emissions cargo handling equipment associated with the District's two marine terminals and its maritime industrial tenants located between the two terminals shall also be eligible projects.

(3) The board shall adopt policies and procedures at a publicly noticed board meeting that define the requirements, procedures, and operation of the MIIF. The policies and procedures will set forth the process and requirements for the board's consideration and approval of MIIF projects.

(4) Off-tidelands impacts means impacts to communities adjacent to, directly associated with, or resulting from the District's maritime industry and terminals, which are of a unique, adverse or exclusionary in nature and have a direct relationship or nexus between the District's on-tidelands maritime industrial operations.

(5) The District's gross maritime industrial revenue means the District's annual revenues earned from the operation of the Tenth Avenue Marine Terminal and the National City Marine Terminal and District's revenue from its maritime industrial tenants located between the two terminals, but shall exclude grants, legal settlements and other federal or state funding received by the District.

(5) MIIF funds shall be expended for projects consistent with the public trust doctrine and shall be subject to Section 30.5 of this Act.

~~it is necessary to provide incentives to communities that experience the adverse environmental, economic, quality of life, and other impacts that result from hosting a working waterfront, such as a decrease in recreational opportunities, the loss of municipal revenue opportunities, increased noise and traffic, and negative effects on air quality. These impacts are also described generally as "maritime industrial impacts."~~

~~(b) In implementing the master plan adopted pursuant to Section 19, the board shall include funding for cooperative infrastructure and capital projects on and off tidelands and submerged lands, consistent with the public trust doctrine, that directly address maritime industrial impacts by the port in cities that host maritime terminals.~~

~~(c) Cities that demonstrate all of the following shall be eligible to receive maritime industrial impacts funding from the board for cooperative infrastructure and capital projects:~~

~~(1) Host at least one maritime terminal.~~

~~(2) Have census tracts near maritime terminals that exceed state standards for average annual particulate matter exposure and have been designated as environmental justice communities, as determined by the San Diego County Air Pollution Control District.~~

~~(3) Have census tracts near maritime terminals that are less than or equal to 80 percent of regional median income.~~

~~(4) Have a planning area near the maritime terminal, with residential zones that have restricted public access to the tidelands and submerged lands and waterfront that are within close proximity to the planning area.~~

~~(d) The board shall create the "Community Impact Fund" and deposit 1 percent of all nontax port district gross revenue into that fund. In addition to the funding required in subdivision (b), the board shall use the moneys in the fund to pay for projects that address maritime industrial impacts that are proposed by eligible cities.~~

~~(e) The State Lands Commission shall be the final arbiter of any disputes with regard to eligibility and approval of projects, consistent with the commission's authority over projects on and off tidelands and submerged lands, as set forth in Section 30.5. The commission shall, to the extent feasible, rely on both of the following:~~

~~(1) Existing local, state, and federal agency studies.~~

~~(2) Port studies conducted on port impacts.~~

~~(f) (1) The board shall create the "Future Public Access Fund" and deposit 1 percent of eligible rents into that fund. The board shall use the moneys in the fund to convert industrial property in disadvantaged communities within the district to open space, including, but not limited to, parks, plazas, and promenades.~~

~~(2) For purposes of this subdivision, the following terms have the following meanings:~~

~~(A) "Disadvantaged community" means a community identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code.~~

~~(B) "Eligible rents" means payments to the port district for the lease of real property located in the district and not located in a disadvantaged community.~~

## **SEC. 47.**

The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique geography and circumstances relative to the development of harbor and port facilities within the San Diego Unified Port District.

## **SEC. 58.**

If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.