

Date of Hearing: July 5, 2021

ASSEMBLY COMMITTEE ON TRANSPORTATION

Laura Friedman, Chair

SB 231 (McGuire) – As Amended May 26, 2021

SENATE VOTE: 39-0

SUBJECT: Department of Transportation: transfer of property: Blues Beach property

SUMMARY: This bill authorizes the California Department of Transportation (Caltrans) to transfer the Blues Beach property in Mendocino County to a qualified non-profit corporation organized by one or more California Native American Tribes for the purposes of environmental protection. Specifically, **this bill:**

- 1) Defines “Blues Beach property” as approximately 172 acres of property located immediately west and adjacent to State Route 1 between post mile 73.88 and post mile 75.00 in the unincorporated community of Westport in the County of Mendocino that was acquired by Caltrans for state highway purposes. Declares that Blues Beach property does not include property that is part of the highway operating right of way.
- 2) Defines “California Native American tribe” as the Sherwood Valley Band of Pomo Indians, the Round Valley Indian Tribes, or the Coyote Valley Band of Pomo Indians.
- 3) Defines “Qualified non-profit corporation” as a non-profit 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.
- 4) Authorizes Caltrans to transfer the Blues Beach property to a qualified non-profit corporation upon terms, standards, and conditions approved by the California Transportation Commission (CTC).
- 5) Requires the Blues Beach property to be maintained as a natural habitat.
- 6) Authorizes Caltrans to enter into a cooperative agreement with the transferee to provide funding for the future maintenance of the property. In determining the amount of funding, requires Caltrans to consider the costs of maintaining the property and offset from the amount of those costs any benefit or value received by the transferee as a result of the transfer. Requires any funding provided as part of the transfer agreement to be limited to a single payment.
- 7) Requires Caltrans to provide written notice of the transfer and cooperative agreement, and any amount of funding, to the fiscal and transportation policy committees of the Legislature at least 30 days prior to the transfer for review.
- 8) Requires the qualified non-profit corporation to assume the long-term responsibility for the future maintenance of the property.
- 9) Requires the property to revert to Caltrans if the qualified non-profit corporation fails to maintain the property, or if it ceases to exist, including any remaining funds from the original transfer. Prohibits any associated costs of the reversion be accrued to Caltrans.

- 10) Requires all deeds conveying the Blues Beach property include a restriction limiting the use of the property to natural habitat purposes, and be filed with the county recorder's office in the county where the property is located.
- 11) Prohibits the qualified non-profit corporation from:
 - a) Transferring or assigning the property to another entity without approval from Caltrans.
 - b) Transferring or using the property for any other purpose than those authorized.
 - c) Subdividing the property.
 - d) Allowing the property to be used to obtain development approval for other property or to provide mitigation for the development of other property.
 - e) Charging monetary fees to access the property.
 - f) Permitting commercial or retail development on the property.
 - g) Permitting gaming on the property.
- 12) Requires the qualified non-profit corporation to allow public access to the Blues Beach property consistent with the requirement to maintain the property as a natural habitat but allows the non-profit to restrict public access to any portion of the property that contains a Native American burial ground, and requires that public access to the property be restricted from sunset to sunrise.

EXISTING LAW:

- 1) Provides that Caltrans has full possession and control of state highways.
- 2) Allows Caltrans to acquire any real property that it considers necessary for state highway purposes.
- 3) Allows Caltrans, whenever it determines that any real property acquired by the state for highway purposes is no longer necessary, may sell, contract to sell, sell by trust deed, or exchange the real property in the manner and upon terms, standards, and conditions established by the CTC.
- 4) Requires Caltrans to offer to sell or exchange excess real property, meaning all land and improvements situated outside of the calculated highway right-of-way lines not needed or used for highway or other public purposes, within one year from the date that it is determined to be excess.
- 5) Generally allows state or local agencies to transfer the interest, or obligation to restore and enhance property, to a governmental entity, special district, or non-profit organization if the agency is required to protect property to mitigate an adverse impact of a project upon natural resources.
- 6) Generally prohibits state land that is located between the first public road and the sea, with an existing or potential public accessway to and from the sea be transferred or sold by the state to a private entity unless the state retains a property interest. Allows for exceptions if the transfer is to a non-profit that exists for the purposes of preserving lands for public use, as specified; or are state lands controlled by the Department of State Parks or the State Coastal Conservancy, as specified.

FISCAL EFFECT: Unknown

COMMENTS: The Blues Beach property is located approximately 14 miles north of Fort Bragg in the unincorporated community of Westport in Mendocino County. It is comprised of 12 parcels totaling 172 acres and is owned and maintained by Caltrans. The beach currently has an access road from State Route 1 (SR 1), and visitors often drive personal cars and off-highway vehicles right up to the water, which can result in damages to the natural habitat, trash and debris, and potentially dangerous conditions as cars can become stuck in the sand. Additionally, this activity causes damage to cultural resources within the Blue Beach property.

Within the Blue Beach property is the Chadbourne Gulch, a small stream that flows to the Pacific Ocean, about 1.8 miles south of Westport and 12 miles north of Fort Bragg, California. The watershed is dominated by mixed hardwood and conifer forest and is primarily privately owned and managed for timber production and recreation. The principal watershed landowner is currently Georgia-Pacific, an independently operated pulp and paper company of Koch Industries, and one of the world's largest manufacturers and distributors of paper products and building lumber.

The Blues Beach property has been under Caltrans' jurisdiction for decades, and was originally acquired by the state with federal monies. Caltrans has stated that the transportation and roadway maintenance agency is not equipped to oversee activities and responsibilities associated with the state beach, in contrast to the State Department of Parks and Recreation. As a result of the lack of oversight on Blues Beach, locals tend to use the beach for activities not allowed on state-managed beaches, such as driving on the sand, fireworks and overnight camping.

There are no scheduled trash pick-ups, regular maintenance, or sanitation facilities, there have been fires caused by illegal fireworks, overnight camping without proper facilities, trash and damage done by vehicles. On March 13, 2021 Westport Volunteer Fire Department and CalFire responded to a wildland fire at Blues Beach caused by a skyrocket shot into the hillside, which resulted in a small fire between the parking lot and SR 1.

Cultural Resource: Blues Beach is culturally significant to several federally recognized Native American tribes in Mendocino County. Specifically, the Sherwood Valley Band of Pomo Indians, the Round Valley Indian Tribes, and the Coyote Valley Band of Pomo Indians are direct descendants of the Coast Yuki and Northern Pomo Indians, people who inhabited this coastal area. The property contains known village sites, human remains, cultural resources, and archeological sites. The site had a wide variety of historical uses from basket making to foraging resources on the property.

According to the tribes, in 2011, they became aware that the Blues Beach property was being severely impacted by vehicles, including a highly sacred site that contains tribal ancestors and artifacts. These sites are eligible for protection under the National Register of Historic Places and California Register of Historical Resources. The tribes joined together to begin discussions with Caltrans on protective measures for the historical sites on the property.

In 2019, the tribes formed a formal working group to approach Caltrans and advocate for a property transfer of ownership to the tribes. The tribes have cited that reasons for acquiring and managing the property is to teach the next generations traditional ways of foraging and gathering without damaging the resource, for environmental protection, and protecting native plants and ocean life.

On September 25, 2020 Governor Newsom signed Executive Order N-15-19, which acknowledges the state's role in discriminating against and denying the existence of governmental powers to California Native Americans, and honors California Native Americans for "carrying on cultural and linguistic traditions, and stewarding and protecting this land that we now share." At the federal level, the Biden-Harris Administration has prioritized making it easier for tribes to re-acquire land. The United States Secretary of the Interior has stated, "We have an obligation to work with Tribes to protect their lands and ensure that each Tribe has a homeland where its citizens can live together and lead safe and fulfilling lives." This bill provides an opportunity for the state and federal government to partner with federally recognized tribes who call Blues Beach their ancestral land.

Transfer: Current law prevents Caltrans from transferring the property directly to the tribes. In working with the tribes, Caltrans has also erected some signage and fencing to help protect the cultural sites. Part of the property is incorporated into the highway right-of-way of Highway 1, and is needed for future highway safety and other uses. The remainder of the property could be transferred or sold. Under current law, Caltrans has the ability to sell or exchange property considered "excess" meaning, property acquired by the state for highway purposes that is no longer necessary for those purposes. The CTC is tasked with developing the terms, standards, and conditions for any property sale. Additionally, Caltrans, and other state and local agencies, can transfer the interest in state property that is required to mitigate an adverse impact upon natural resources to a governmental entity, special district, or non-profit organization and can provide funds to the transferee to implement restoration or enhancements.

Caltrans and the tribes continue to collaborate on possibilities for the Blues Beach property, but no final resolution has been determined. Currently the tribes are working to form the non-profit required by this bill. Caltrans is working to assess the property to establish the parameters of a possible transfer, including what parcels they may need to retain for future highway safety or expansion purposes.

This bill allows Caltrans to transfer the Blues Beach property in Mendocino County to a "qualified non-profit corporation" that is formed by one or more California Native American tribes for the purpose of environmental protection. This bill specifies restrictions on the use of the land, and requires Caltrans re-acquire the property if it is not maintained.

Committee Comments: In order to ensure the proper identification of the tribal community and cultural sites associated with Blues Beach, as well as better facilitate the engagement of the federal government, the author may seek the following amendments:

- Specify the transfer of property is intended for environmental protection and cultural resources management.
- Authorize the transfer of property from Caltrans to a qualified nonprofit corporation or specified federally recognized California Native American tribe.
- Require the Blues Beach property be maintained as a natural habitat and cultural resource site eligible to be listed on the National Register of Historic Places and California Register of Historical Resources.
- Require Caltrans to seek approval from the Department of Transportation, if it is found the transfer cannot occur directly.

According to the author, “California Native American tribes have been the caretakers of the Golden State for centuries, protecting precious coastline, forests, and wildlife. Across the North Coast, tribes have taken the lead in efforts to restore cultural landmarks to their former glory, and keep these spaces protected from human-made damage. SB 231 will allow the California Department of Transportation (Caltrans) to transfer the Blues Beach, or Chadbourne Gulch Beach, property in Mendocino County to a qualified non-profit, which will be headed by three local tribes, for its maintenance and protection at the non-profit’s expense.”

In support, the Tribal Chairman of the Coyote Valley Band of Pomo Indians writes, “Returning this land to the Tribes is not only the right thing to do, but will also lead to the proper stewardship and historical preservation of the Beach to educate future generations and protect the beach for the long-term.”

REGISTERED SUPPORT / OPPOSITION:

Support

Coyote Valley Band of Pomo Indians
Sherwood Valley Band of Pomo Indians

Opposition

None on file.

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