

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2023-2024 Regular Session**

SB 1050 (Bradford)  
Version: April 3, 2024  
Hearing Date: April 16, 2024  
Fiscal: Yes  
Urgency: No  
AWM

**SUBJECT**

California American Freedmen Affairs Agency: racially motivated eminent domain

**DIGEST**

This bill establishes a procedure by which the rightful owners, as defined, of property that was taken as a result of racially motivated eminent domain, as defined, may apply for compensation from the Fund for Reparations and Restorative Justice.

**EXECUTIVE SUMMARY**

Eminent domain, as enshrined in the federal and state Constitutions, permits the government to seize privately owned land and put it to a public use – provided that the owner is justly compensated for their property. Unfortunately, state and local actors have frequently targeted properties owned by racial and ethnic minorities for seizure without paying the owners a fair price – which harmed not only the former owners, but stifled the development of generational wealth that allows families to truly flourish. The Legislature has addressed some of these historic wrongs with legislation, but not all victims of racially targeted takings have been so lucky.

This bill establishes a process by which the former owners of property taken via eminent domain without just compensation on the basis of racially discriminatory motives, or their direct descendants, could apply for and obtain the present-day value of the land that was improperly taken (minus the value of what was paid at the time, if anything). The bill's process is modeled after the California Victim Compensation Board, another state entity that provides funds to persons who were wronged. The process adopted in this bill is inspired by a recommendation from the Task Force to Study and Develop Reparation Proposals for African Americans, with a Special Consideration for African Americans Who are Descendants of Persons Enslaved in the United States (Task Force), but the right to apply for and receive compensation for land taken through racially motivated eminent domain is open to all persons, regardless of race or whether they are descended from a person enslaved in the United States.

This bill is sponsored by the author and is supported by over 20 organizations and 5 individuals. The Committee has not received timely opposition to this bill.

### **PROPOSED CHANGES TO THE LAW**

Existing constitutional law:

- 1) Limits the taking of private property for public use as follows:
  - a) Under the United States Constitution, private property shall not be taken for public use without just compensation. (U.S. Const., 5th & 14th Amendments.)
  - b) Under the California Constitution, private property may be taken or damaged for a public use only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. (Cal. Const., art. I, § 19.)
- 2) Provides for equal protection under the law as follows:
  - a) Under the United States Constitution, provides that no state shall deny to any person within its jurisdiction the equal protection of the laws. (U.S. Const., 14th Amend., § 1.)
  - b) Under the California Constitution, provides that a person may not be denied the equal protection of the laws, and that a citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens. (Cal. Const., art. I, § 7.)
- 3) Provides that all persons are by nature free and independent and have inalienable rights, including acquiring, possessing, and protecting property. (Cal. Const., art. I, § 1.)
- 4) Provides that the Legislature does not have the power to make any gift or authorize the making of any gift of public money or thing of value to any individual, municipal, or other corporation. (Cal. Const., art. XVI, § 6.)

Existing state law:

- 1) Establishes the Eminent Domain Law, which establishes the procedures by which a court may determine the right to possession of a property and the value of a property within an eminent domain proceeding. (Code Civ. Proc., pt. 3, tit. 7, §§ 1230.010 et seq.)
- 2) Establishes the California Victim Compensation Board (CalVCB), which provides the victims of certain crimes, and certain family members of victims and good Samaritans, with compensation for certain expenses incurred as a result of the crime, including health care costs, income losses, job retraining, home security installation,

relocation, and mental health counseling. (Gov. Code, tit. 2, div. 3, pt. 4, §§ 13900 et seq.)

- 3) Establishes procedures by which a person may apply for compensation from the CalVCB and for the CalVCB to consider and approve or deny an application. (Gov. Code, §§ 13952-13954, 13959.)
- 4) Establishes the Restitution Fund, from which compensation awards from CalVCB are paid. (Gov. Code, §§ 13961, 13964; Pen. Code, § 14033.)

Former state law:

- 1) Established the Task Force to develop reparations proposals for African Americans, with special consideration for African Americans who are descended from persons enslaved in the United States, and provided that the Task Force statutes would remain in effect until July 1, 2023, and as of that date be repealed. (former Gov. Code, §§ 8301-8301.7, repealed by Gov. Code § 8301.7.)

This bill:

- 1) Provides that the Legislature finds and declares that it is in the public interest to compensate victims of racially motivated eminent domain, which deprived persons of just compensation for their property due to racially discriminatory motives. This unjust taking of land without fair compensation destroyed communities, forced many from their historical neighborhoods, deprived those persons of the fair value of their property, and, in many cases, prevented the accumulation of generational wealth. Providing compensation to these victims of racial discrimination will restore the value of wrongfully taken property to rightful owners and hold government entities responsible for those wrongful discriminatory acts.
- 2) Provides that the chapter added by this bill shall govern the procedure by which rightful owners and their descendants may seek a determination that they were the victims of racially motivated eminent domain and obtain a referral to the Fund for Reparations and Restorative Justice for compensation.
- 3) Defines the following terms:
  - a) "Racially motivated eminent domain" is when the state, county, city and county, district, or other political subdivision of the state acquires private property for public use and does not distribute just compensation to the owner at the time of the taking, and the taking, or the failure to provide just compensation, was due, in whole or in part, to the owner's ethnicity or race.
  - b) "Rightful owner" is a person who has had property taken from them by the state, county, city, city and county, district, or other political subdivision

without just compensation as a result of racially motivated eminent domain, or a direct descendant of the person whose property was taken.

- 4) Provides that, upon appropriation by the Legislature, the Office of Legal Affairs (Office) within the California American Freedmen Affairs Agency<sup>1</sup> shall do all of the following:
  - a) Accept applications for compensation from persons who claim they are the rightful owner of property taken as a result of racially motivated eminent domain.
  - b) Review and investigate applications.
    - i. As part of the review, the Office may request submission of additional information supporting the application that is reasonably needed to verify the application, determine whether the applicant is a rightful owner, and determine whether the taking was racially motivated.
    - ii. If the Office makes a request for additional documentation, it shall communicate that request to the applicant with a notice of the additional information required.
    - iii. The Office shall consider any additional information provided by the applicant within 30 days of the receipt of the notice.
  - c) After reviewing all of the relevant materials, determine whether the applicant is the rightful owner of property taken through racially motivated eminent domain.
- 5) Provides that, if the Office determines that an applicant has established that they are a rightful owner under 4), the Office shall determine:
  - a) The present-day fair market value of the property that was taken from the rightful owner as a result of racially motivated eminent domain; and
  - b) Whether issuing just compensation to that rightful owner would serve to redress past acts of racial discrimination, prevent future acts of racial discrimination, and benefit the whole of the community and its general welfare.
- 6) Provides that, if the Office of the Chief Financial Officer makes a determination under 5)(b) that compensation is warranted, the Office shall certify that the rightful owner is entitled to compensation from the Fund for Reparations and Restorative Justice<sup>2</sup> in the amount of the fair market value of the property, as determined in 5)(a), minus the amount paid at the time of the taking, adjusted for inflation.

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<sup>1</sup> SB 1403 (Bradford, 2024), which would establish the California American Freedman Affairs Agency, has been passed by this Committee and is pending before the Senate Governmental Organization Committee.

<sup>2</sup> SB 1331 (Bradford, 2024) which would establish the Fund for Reparations and Reparative Justice, is pending before this Committee.

- 7) Provides that, if the Office determines that an applicant is not a rightful owner or that just compensation is not warranted, the Office shall notify the applicant of its finding.
  - a) The applicant may appeal the determination within 60 days of receiving the notice and provide additional information to support their claim.
  - b) The Office shall consider the appeal and any new information provided and issue a determination on the appeal within 120 days.
- 8) Provides that every finding, decision, determination, or other official act of the California American Freedman Affairs Agency is subject to judicial review in accordance with existing law.
- 9) Requires the Office of Strategic Communications and Media Affairs within the California American Freedman Affairs Agency to develop and implement a public education campaign regarding the cycle of gentrification, displacement, and exclusion, the connection between redlining and gentrification, and the history of discriminatory urban planning in the state.
- 10) States that the Legislature finds and declares that 1)-9) serve a public purpose and do not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution by redressing past acts of racial discrimination, preventing future acts of racial discrimination, and benefitting the whole of the community and its general welfare.

### COMMENTS

#### 1. Author's comment

According to the author:

During my two years serving on the California Reparations Task Force, my colleagues and I documented the racially-motivated takings of property across California. This was often done through the official use of eminent domain.

Just like the historic legislation I authored in 2022 to provide restitution for the unjust taking of Bruce's Beach in Manhattan Beach, SB 1050 will provide a broad pathway to justice for others harmed by such racist policies and practices of the distant and recent pasts.

Many Californians were denied the opportunity to prosper and build generational wealth as a result of racial bias. In California, government officials abused the power of eminent domain by using it to destroy homes and move people off their land. This occurred in many areas of California. One example documented in the Task Force Report was the construction of the Century

Freeway in Los Angeles in 1968 which disproportionately dislocated 3,550 mostly African American families and 117 businesses. The people who suffered these harms deserve to be compensated fairly for this.

## 2. The prevalence of racially motivated eminent domain

Eminent domain, as enshrined in the federal and state Constitutions, permits the government to seize privately owned land and put it to a public use – provided that the owner is justly compensated for their property.<sup>3</sup> “Just compensation” “means in most cases the fair market value of the property on the date it is appropriated,” which entitles the owner “to receive what a willing buyer would pay in cash to a willing seller at the time of taking.”<sup>4</sup> Historically, however, federal, state, and local governments have frequently targeted properties owned by racial and ethnic minorities for seizure without paying the owners a fair price – which harmed not only the former owners, but stifled the development of generational wealth that allows families to truly flourish.<sup>5</sup>

For example, the Legislature has already taken steps to restore the land taken from Willa and Charles Bruce in the 1920s. The Bruces had purchased land along the Strand in Manhattan Beach and turned it into a seaside resort that welcomed Black beachgoers.<sup>6</sup> “As the resort gained popularity and attracted Black beachgoers, many white residents of the surrounding predominantly white community reacted with hostility and racism.”<sup>7</sup> So in 1924, “the Manhattan Beach City Council voted to condemn the Bruces’ resort site through eminent domain to build a park,” even though it “is well-documented that the real reason behind the eminent domain process was racially motivated.”<sup>8</sup> The city never built the park,<sup>9</sup> and the Bruces received only \$14,500 for the land.<sup>10</sup> It was not until this decade that the Legislature and Los Angeles County acted to return Bruce’s Beach to the Willa and Charles’ descendants.<sup>11</sup>

Another high-profile example of racially motivated eminent domain was the decade-long clearing of Chavez Ravine, the land that is now home to Dodger Stadium. Chavez Ravine was home to a close-knit community of mostly Mexican Americans, many of

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<sup>3</sup> U.S. Const., 5th amend.; Cal. Const., art. I, § 19.

<sup>4</sup> *Kirby Forest Industries, Inc. v. U.S.* (1984) 467 U.S. 1, 9-10 (internal quotation marks omitted).

<sup>5</sup> See, e.g., California Task Force to Study and Develop Reparation Proposals for African Americans, Final Report (Jun. 29, 2023), pp. 209-210, available at <https://oag.ca.gov/system/files/media/full-ca-reparations.pdf> (Final Report). All links in this analysis are current as of April 11, 2024.

<sup>6</sup> Los Angeles Chief Executive Office, Bruce’s Beach (2024), <https://ceo.lacounty.gov/ardi/bruces-beach/>.

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> Xia, *Manhattan Beach was once home to Black beachgoers, but the city ran them out. Now it faces a reckoning*, Los Angeles Times (Aug. 2, 2020), available at <https://www.latimes.com/california/story/2020-08-02/bruces-beach-manhattan-beach>.

<sup>11</sup> See SB 796 (Bradford, Ch. 435, Stats. 2021); Bruce’s Beach, *supra*.

whom were prevented by redlining from moving to other parts of the city.<sup>12</sup> City officials first deemed the area “blighted” so that they could clear the area and build a massive federal public housing project; developers offered some residents cash payments, but others were forced out through eminent domain and paid the landowners far less than the land was worth.<sup>13</sup> Then, when the housing project fell through, the city bought the land back (for a much lower price) and the voters approved to give the land to the owner of the Brooklyn Dodgers, to entice the Dodgers to move to Los Angeles.<sup>14</sup> Sheriffs were sent to forcibly remove the remaining families from Chavez Ravine and homes were bulldozed minutes later.<sup>15</sup> Residents and the descendants of residents of Chavez Ravine have yet to be fully compensated for the land taken from them, though AB 1950 (Carrillo, 2024), which is pending in the Assembly, would require the City of Los Angeles to convene a task force for that purpose.

### 3. The Task Force’s report and recommendations

In 2020, the Legislature enacted AB 3121 (Weber, Ch. 319, Stats. 2020), which created the first-in-the-nation Task Force to explore options for providing reparations to African Americans, and particularly the descendants of enslaved persons, in recognition of California’s role in the heinous institution of slavery and the post-abolition perpetuation of racist institutions.<sup>16</sup> The Task Force released an interim report on June 1, 2022, which provided the Task Force’s preliminary findings regarding the ongoing and compounding harms caused by federal, state, and local governments from slavery and the “ ‘badges and incidents of slavery’ ” that continued to be imposed on African Americans long after slavery was formally abolished.<sup>17</sup> The report notes that, because “the effects of slavery infected every aspect of American society over the last 400 years...it is nearly impossible to identify every ‘badge and incident of slavery,’ to include every piece of evidence, or describe every harm done to African Americans.”<sup>18</sup>

On June 29, 2023, the Task Force issued its final report to the California Legislature.<sup>19</sup> The final report incorporates and updates the interim report and recommends

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<sup>12</sup> Shatkin, *The Ugly, Violent Clearing of Chavez Ravine Before It Was Home To The Dodgers*, LAist (Oct. 17, 2018; updated May 1, 2023), <https://laist.com/news/la-history/dodger-stadium-chavez-ravine-battle>; Baxter, *Orphans of the Ravine*, Los Angeles Times (Mar. 29, 2008), <https://www.latimes.com/archives/la-xpm-2008-mar-29-sp-ravine29-story.html>.

<sup>13</sup> Shatkin, *supra*.

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

<sup>16</sup> HR 40 (Lee, 118th Cong., 2023-2024), a federal bill to create a federal commission to study the effects of slavery and discrimination on African Americans and devise reparations proposals, is pending before the House Committee on Judiciary. The bill has been introduced every year since 1989.

<sup>17</sup> California Task Force to Study and Develop Reparation Proposals for African Americans, Interim Report (June 1, 2022), available at <https://oag.ca.gov/ab3121/reports>.

<sup>18</sup> *Id.* at p. 5.

<sup>19</sup> See generally Final Report, *supra*.

appropriate remedies, including compensation, for African Americans as recompense for the State's gross human rights violations against African Americans and their descendants.<sup>20</sup> The final report explains:

[T]he harms inflicted upon African Americans have not been incidental or accidental—they have been by design. They are the result of an all-encompassing web of discriminatory laws, regulations, and policies enacted by government. These laws and policies have enabled government officials and private individuals and entities to perpetuate the legacy of slavery by subjecting African Americans as a group to discrimination, exclusion, neglect, and violence in every facet of American life. And there has been no comprehensive effort to disrupt and dismantle institutionalized racism, stop the harm, and redress the specific injuries caused to descendants and the larger African American community.<sup>21</sup>

The Task Force developed its recommendations for reparations taking into account this willful infliction of harm and applying international standards and principles for the remedy of wrongs and injuries caused by a government.<sup>22</sup>

One of the Task Force's recommendations is to provide restitution to the owners of property that was taken through the use of eminent domain without providing just compensation.<sup>23</sup> The Task Force recommends that this remedial project could be run by the California African American Freedman Affairs Agency,<sup>24</sup> which would, among other things, review and investigate complaints from people who claim their property was taken without just compensation.<sup>25</sup>

4. This bill creates a claims process by which the rightful owners of land taken through racially motivated eminent domain could apply to receive just compensation

This bill establishes a process by which persons, or the direct descendants of persons, whose land was taken through eminent domain without just compensation, due to racially discriminatory motives, can obtain redress for that harm. The process is modeled after the process by which victims of crimes can obtain redress from the Victim Compensation Board (CalVCB), another statutory scheme in which the state has

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<sup>20</sup> *Id.* at p. 4.

<sup>21</sup> *Id.* at p. 48.

<sup>22</sup> *Id.* at p. 512.

<sup>23</sup> *Id.* at p. 687.

<sup>24</sup> SB 1403 (Bradford, 2024), which this Committee passed at a prior hearing, would establish the California African American Freedman Affairs Agency. SB 1403 is pending before the Senate Governmental Organization Committee.

<sup>25</sup> Final Report, *supra*, at p. 687.



determined that providing restitution to individuals harmed by the wrongful acts of others is a worthwhile use of state funds.<sup>26</sup>

At a high level, this bill permits rightful owners – defined as persons, or the direct descendants of persons, whose land was taken by eminent domain without just compensation due in whole or in part to racially discriminatory motives – to submit an application for compensation, including supporting documentation, from the Office of Legal Affairs (Office) within the California African American Freedman Affairs Agency. The Office may grant the application or, if it determines more evidence is necessary, ask the applicant to provide more supporting materials. If the Office grants the application, the Office will determine whether issuing just compensation to the rightful owner will serve to redress past acts of racial discrimination, prevent future acts of racial discrimination, and benefit the whole of the community and its general welfare. Assuming the answer is yes, the Office will certify that the rightful owner is entitled to compensation from the Fund for Reparations and Restorative Justice<sup>27</sup> in the amount of the present-day fair market value of the property, minus the present-day value of what was paid. The bill provides for appellate procedures if the application is denied at any point in the review.

As noted above, this bill is modeled after the Victim Compensation Board and is similarly aimed at providing redress for persons wronged. Awards of funds are also conditioned on a finding that the award will serve the public purposes of preventing discrimination and benefitting the community as a whole. Together, these goals appear to provide a sufficient legislative justification for the use of public funds to provide compensation for individual victims of racially motivated eminent domain.<sup>28</sup> And because SB 1050 is neutral as to the race of the rightful owner – any person whose land was taken without just compensation because of the person’s race may seek compensation, regardless of their race or the race of the persons doing the taking. As such, the bill is facially neutral and does not implicate the Equal Protection Clause of

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<sup>26</sup> In this case, the “others” would be the local governments that engaged in racially motivated eminent domain; to the extent that the state or a branch of the state itself engaged in racially motivated eminent domain, this bill provides compensation from the actual entity that did the harming.

<sup>27</sup> The bill establishing this fund (SB 1331 (Bradford, 2024)) has been amended to name the fund the Fund for Reparations and Reparative Justice. If this bill is passed by this Committee, the author will amend the bill to conform the name of the fund.

<sup>28</sup> See Cal. Const., art. XVI, § 6. Additionally, at this stage, compensation is theoretical; the fund from which compensation would be awarded is the subject of pending legislation (SB 1331 (Bradford, 2024)), and the amounts therein could be expended only upon an appropriation of the Legislature (*ibid.*).

the Fourteenth Amendment or the California Constitution<sup>29</sup> or section 31 of article I of the California Constitution (better known as Proposition 209).<sup>30</sup>

5. Arguments in support

According to the Los Angeles County Board of Supervisors:

As stated by the LA County Board of Supervisors [in a county statement], “While we cannot change the past, we can act now in the present to right historic wrongs by identifying and returning land that was unjustly taken. People will not be able to litigate themselves out of historical real estate discrimination. It is the function of decades, if not centuries, of racially discriminatory acts, policies, and laws. Continual changes in government policies are necessary to promote racial equity further and address the systemic barriers of structural racism. It is essential to ensure property owners' rights and public welfare by providing fair compensation for any private land or property seizure under the authority of eminent domain.”

The Los Angeles County Board of Supervisors became the first government entity in the United States to return land that had been taken via racist eminent domain policy, but it should not be the last. The Board supports SB 1050 for its ability to identify and rectify racially motivated eminent domain that has threatened property rights, fairness, and the public interest, potentially harming property owners and communities.

**SUPPORT**

ACLU California Action  
Africatown Coalition  
Alliance for Reparations, Reconciliation, and Truth  
BAMBD CDC  
Bay Area Regional Health Inequities Initiative  
Black Reparations Project  
California African American Chamber of Commerce  
California Black Health Network  
Collaborising  
Democrats of Rossmoor  
Greater Sacramento Urban League

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<sup>29</sup> U.S. Const., 14th amend., § 1; Cal. Const., art. I, § 7. Even if the bill were so limited, the United States Supreme Court has recognized that “remediating specific, identified instances of past discrimination that violated the Constitution or a statute” is a compelling interest that justifies race-based government action. (*Students for Fair Admissions, Inc. v. President and Fellows of Harvard College* (2023) 600 U.S. 181, 207.)

<sup>30</sup> See Cal. Const., art. I, § 31. Additionally, this is a remedial scheme for specific past wrongs, while Proposition 209 applies only to “public employment, public education, or public contracting.” (*See id.*)

Lineage Equity and Advancement Project  
Los Angeles County Board of Supervisors  
NAACP California Hawai'i State Conference  
NAACP Santa Rosa - Sonoma County Branch  
National Volunteer Council on Freedman Affairs  
PRC | Black Leadership Council  
Prevention Institute  
Reparation Generation  
Rising Communities  
Western Center on Law and Poverty  
Five individuals

### **OPPOSITION**

None received

### **RELATED LEGISLATION**

#### **Pending Legislation:**

SB 1403 (Bradford, 2024) establishes the California Freedmen Affairs Agency which would, among other things, implement and oversee the implementation of the recommendations of the Task Force. SB 1403 is pending before the Senate Governmental Organization Committee.

SB 1331 (Bradford, 2024) establishes the Fund for Reparations and Reparative Justice in the State Treasury with the purpose of funding policies that indemnify African American descendants of a chattel enslaved person or descendants of a free Black person living in the United States prior to the end of the 19th century, and provides for its funding as specified. SB 1331 is pending before this Committee and is set to be heard on the same date as this bill.

SB 490 (Bradford, 2024) establishes the California Freedmen Affairs Agency which would, among other things, implement and oversee the implementation of the recommendations of the Task Force. SB 490 is pending before the Assembly Judiciary Committee.

AB 1950 (Carrillo, 2024) requires the City of Los Angeles to create a task force for the purpose of providing compensation to former residents and landowners displaced from the Chavez Ravine area of Los Angeles between 1950 and 1961, as specified. AB 1950 is pending before the Assembly Local Government Committee.

ACA 7 (Jackson, 2024) proposes an amendment to the California Constitution's prohibition on the State granting preferential treatment to any group on the basis of

race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting, to permit the state to use state monies to fund research-based, or research-informed, and culturally specific programs in any industry, including, but not limited to, public employment, public education, and public contracting, if those programs are established or otherwise implemented by the State for purposes of increasing the life expectancy of, improving educational outcomes for, or lifting out of poverty specific groups based on race, color, ethnicity, national origin, or marginalized genders, sexes, or sexual orientations, subject to approval by the Governor. ACA 7 is pending before the Senate Rules Committee.

Prior Legislation:

AB 2296 (Jones-Sawyer, 2022), would have made it easier for members of the Task Force to be removed, allowed officers of the Task Force to be removed by a majority vote of the members, and extended the July 1, 2023, sunset on the Task Force to July 1, 2024. The bill was passed by the Legislature but vetoed by Governor Newsom, whose veto message stated that he was vetoing the bill at the request of the author of the original legislation that created the Task force.

SB 796 (Bradford, Ch. 435, Stats. 2021) required the Director of Parks and Recreation, by December 31, 2021, to execute a deed amendment to exclude Bruce's Beach, a portion of land within Manhattan State Beach, from the requirement to use the property for recreational purposes only; and authorized Los Angeles County to sell, transfer, or encumber Bruce's Beach, upon terms and conditions determined by the county board of supervisors to be in the best interest of the county and the general public.

AB 3121 (Weber, Ch. 319, Stats. 2020) established the Task Force and its mission, with a sunset date of July 1, 2023.

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