

Date of Hearing: June 21, 2023

ASSEMBLY COMMITTEE ON ACCOUNTABILITY AND ADMINISTRATIVE REVIEW

Cottie Petrie-Norris, Chair

SCR 47 (Glazer) – As Amended May 2, 2023

SENATE VOTE: 30-7

SUBJECT: Chief Justice Rose Elizabeth Bird Justice For All Plaza

SUMMARY: This resolution designates the plaza at the center of the California State Capitol World Peace Rose Garden in the City of Sacramento as the Chief Justice Rose Elizabeth Bird Justice For All Plaza. Specifically, **this resolution:**

- 1) Makes findings about the legal career and accomplishments of Rose Elizabeth Bird, including that she was the first woman to serve on the California Supreme Court, first woman Chief Justice of California, and first woman appointed by a Governor as a cabinet secretary.
- 2) Makes findings that, as Secretary of the Agriculture and Services Agency in the 1970s, she prioritized the health and safety of farmworkers by banning the short-handled hoe that forced workers to stoop over for hours and by helping write the Agricultural Labor Relations Act that gives farmworkers the right to join unions for collective bargaining.
- 3) Makes findings that, despite being a trailblazer for women in law and other accomplishments in California's legal and justice systems, there is no state recognition for her contributions to the state.
- 4) Designates the plaza at the center of the California State Capitol World Peace Rose Garden, located at 1317 15th Street in the City of Sacramento, as the Chief Justice Rose Elizabeth Bird Justice for All Plaza.
- 5) Requests the Department of General Services (DGS) to determine the cost of erecting appropriate plaques and markers, consistent with the signage requirements for state buildings, showing this special designation and, upon receiving donations from non-state sources, to cover that cost to erect signage.

EXISTING LAW:

- 1) Declares that the historic State Capitol is a state historic and architectural legacy, which must be preserved and maintained in a manner befitting the significance of the structures to the history and people of California. (Gov. Code Sec. 9149.7)
- 2) Prescribes various duties for DGS in connection with the development and maintenance of Capitol Park. (Gov. Code Sec. 14629 and Sec. 14630)

- 3) Establishes the Historic State Capitol Commission to provide a permanent, official body to be charged with advisory review of the maintenance, restoration, development, and management of the “historic State Capitol.” (Gov. Code Sec. 9149.7)
- 4) Defines “historic State Capitol” to mean the building housing the state legislative offices and chambers, and Capitol Park, provided that Capitol Park shall be included in the historic State Capitol only upon the adoption by the Joint Rules Committee of a master plan regarding Capitol Park. (Gov. Code Sec. 9149.1)

FISCAL EFFECT: Legislative Counsel has keyed this bill as fiscal.

COMMENTS:

- 1) *Author’s Purpose.* According to the author:

“This resolution would name the plaza in the center of the State Capitol World Peace Rose Garden the Chief Justice Rose Elizabeth Bird Justice For All Plaza.’ This recognition in the State Capitol Park would honor her historic career and trailblazing legacy. Despite the many glass ceilings Chief Justice Rose Elizabeth Bird broke through for women in law and government, she still has no public recognition in California. She was the first female law clerk for the Nevada State Supreme Court, first female public defender in Santa Clara County, first female cabinet member for a California governor, first female chair of Judicial Council, and first female Chief Justice of California. Yet, even 36 years after her time as Chief Justice of California, there is still no public recognition of the important contributions she made to California. This resolution would appropriately commemorate Chief Justice Rose Elizabeth Bird’s service to California and important accomplishments for women in law.”

- 2) *Rose Elizabeth Bird – Humble Beginnings to First Woman Chief Justice.* Rose Elizabeth Bird was born outside of Tucson, Arizona, on November 2, 1936, as the third child and only daughter of Harry Dalton Bird and Anne Walsh Bird.¹ She was raised on a chicken ranch near the Tohono O’odham Indian Reservation (then called the Papago Indian Reservation) with her older brothers Jack and Philip. Her parents had moved west from New York City after her father, a traveling salesman, lost his career and savings with the 1929 stock market crash. Her mother had worked as a teacher before marrying Harry around 1930, a time when women were often required to quit teaching upon marriage.

Once in Arizona, while Harry focused on farming, Anne worked as a laundress and at other odd jobs while raising Rose and the two boys. At the onset of World War II, she was one of the first women hired at Davis Monthan Air Force Base near Tucson. During that period, Anne became a single mother. She lost her job at the base after the war ended, struggled to find comparable work, and then moved back to New York in 1950 with the children. Rose was 14 years old. The Birds resided in Sherburne, in upstate New York, and Sea Cliff, in Long Island, New York, where Rose concentrated on her high school studies and received

¹ The historical records of Rose Bird are at the Bancroft Library at the University of California, Berkeley, with a biography (quoted from here) and finding aid at [Rose Bird papers, 1930-1999 \(cdlib.org\)](http://cdlib.org/rose-bird-papers-1930-1999/).

scholarships to attend Long Island University. Her mother encouraged her to avoid being pigeonholed in traditional female courses of study.

Politics and Public Service. As an undergraduate, Bird at first chose a career in journalism, and majored in English, graduating magna cum laude from Long Island University in 1958. She worked for a year as a secretary at the Brooklyn Polytechnic Institute in New York to save money for graduate school. In 1959, she moved to California to study political science at the University of California (UC), Berkeley. While a graduate student, she worked as a research assistant and teaching assistant and received a Ford Foundation Fellowship grant in 1960. She was selected to intern as a legislative assistant with state lawmaker Gordon Winton in the California State Assembly, followed by a consultant position with the Assembly Committee on Government Organization during 1961.

During this time, Bird also became acquainted with California's future Governor Edmund G. ("Jerry") Brown, who was an undergraduate student at UC, Berkeley.

A Pioneering Woman Lawyer. Bird attended UC, Berkeley's Boalt Hall School of Law and received her J.D. in 1965, one of only eight women graduates in a class of more than 200 students. She graduated with distinction and top awards for best oral advocacy and brief writing. She then became the first woman to clerk for the Chief Justice of the Nevada Supreme Court. In 1966, she became the first woman hired as a public defender in Santa Clara County where she worked for eight years. In addition to her trial practice, she became chief of the office's appellate division, briefing and arguing cases before the California Supreme Court, the California Courts of Appeal, and federal courts, and held leadership positions with several bar associations. From 1972 to 1974, she was one of the first women to teach at Stanford Law School.

First Woman Cabinet Secretary – Protecting Farmworkers. By the summer of 1974, Bird had left the public defender position for private practice. She volunteered with Jerry Brown's 1974 campaign for Governor and became a trusted advisor. In 1975, newly elected Governor Brown appointed Bird as Secretary of the Agriculture and Services Agency, making her the first woman to serve as a Cabinet Secretary in California history.² As Secretary, a position then typically held by growers, Bird advanced the rights of farmworkers. She banned the short-handled hoe, a tool that required field hands to spend much of their day bent halfway to the ground. She also helped write and get enacted the Agricultural Labor Relations Act, which extended union and collective bargaining rights to farmworkers.

First Woman on State Supreme Court, First Woman Chief Justice. In 1977, Governor Brown appointed Bird, then 41 years old, as California's Chief Justice, making her the first woman to serve on the California Supreme Court and the first woman in the chief justice role. At the time, a woman had served as chief justice in only one other state – North Carolina. She was the first woman to serve as head of any of California's three branches of government.

² At the time, this was a massive state agency with Bird having administrative responsibility over 12 different entities – Department of Industrial Relations, Food and Agriculture, Consumer Affairs, General Services, Veterans Affairs, Franchise Tax Board, State Personnel Board, Fire Marshal, State Teachers Retirement System, Public Employment Retirement System, Museum of Science and Industry, and California Public Broadcasting Commission.

Bird led a liberal majority on the court that issued decisions to strengthen environmental protections, consumer rights, labor rights, access to abortion, and free speech; prohibit bias in jury selection based on race, gender or other characteristics; and prohibit discrimination by public employers based on sexual orientation – in many cases finding broader protections in the state constitution than under federal constitutional rights.

Bird was often a lone dissenter. In her first year on the court, Bird wrote the only dissent in the decision that upheld the constitutionality of Proposition 13, the property tax initiative overwhelmingly approved by voters in 1978. She concluded that the measure violated the federal equal protection clause by creating inequality in taxation for similarly situated home owners. During her tenure on the court, Bird participated in review of 61 death sentence convictions, and voted to overturn the death sentence in all of them.

As Chief Justice, Bird also was the chair of the Judicial Council, which enacts rules of court and sets policy for the state’s judicial system. She brought greater efficiency to court administration with improved procedures and new technologies, including purchase of the first computers for use by justices and their staffs. She made other changes, such as ending the practice of holding judicial conferences at expensive resorts. She also created an “Advisory Committee on Gender Bias in the Courts,” the first such committee focusing on bias in the courts in California and reported to also be the first in the nation.

Tributes by fellow Supreme Court justices when she died, as documented by the California Supreme Court Historical Society,³ included this description by Justice Cruz Reynoso of Bird’s leadership:

“My own observation is that as Chief Justice, she had three passions. Her first passion was the law. [She] honored the law, even when she disagreed with it. Her second passion [was] an abiding faith that the law should protect all, the weak and the strong. Those who were weak in political or economic power could look to the black robes for protection, be they consumers, renters, farmworkers or those politically unloved. The third passion was her conviction that justice would be best served if those black robes were on the shoulders of judges representing both genders and all ethnic and racial groups who make California home.”

Among First Justices Voted Off the Court. Bird faced criticism from powerful interests and those uncomfortable with a young woman in charge since the first hearings on her appointment in 1977. She narrowly won her confirmation vote in the 1978 election, and she faced several efforts to recall her in the early 1980s, although each failed to qualify for the ballot. By mid-1985, opponents were organizing to defeat her in the 1986 election with a campaign focused on her death penalty record, calling her soft on crime. On November 4, 1986, by wide margins, voters denied new terms to Bird and two other liberal justices appointed by Governor Brown, the first time justices were voted off the court since 1934 when California instituted judicial retention elections. Many contemporaneous news reports and historical accounts claim that Bird lost because she was too liberal and out of touch with an electorate that had become more conservative, while others claim that big business interests exploited and hid behind the emotional death penalty issue in a brutal anti-Bird

³ [Rose Elizabeth Bird / California Supreme Court History: Justices | CSCHS.](#)

campaign actually aimed at putting a conservative majority on the court. An interview videotaped just 10 days before the 1986 election reveals Bird's own view of these events.⁴

Life After the Court. After serving as Chief Justice, Bird lived her remaining years in Palo Alto, California, where she cared for her elderly mother until her passing in 1991. Bird also occasionally wrote newspaper commentary and articles, co-authored a book on constitutional law, presented speeches, and made appearances as a political commentator. She also taught law at Golden Gate University in San Francisco and University of Sydney in Australia during the early 1990s, and volunteered in her community at various charities helping underserved populations. An indication of her relative obscurity at this stage of life are several reports that, when she volunteered at a Palo Alto legal clinic, she spent several months filing and photocopying documents for others before horrified aides realized who "Rose" really was. The author of this resolution indicates that honoring her in the Capitol rose garden plaza will help Californians learn more about Bird's trailblazing career and many contributions to the state.

At age 63, on December 4, 1999, Bird died at the Stanford Medical Center from complications from breast cancer, a disease she had been fighting since 1976.

- 3) *Honoring Rose Bird in the State Capitol World Peace Rose Garden.* This resolution designates the plaza at the center of the California State Capitol World Peace Rose Garden, located at 1317 15th Street in Sacramento, as the Chief Justice Rose Elizabeth Bird Justice for All Plaza. ACR 46 (Alpert, Res. Chapter 98, Statutes of 1995) recommended that a privately funded World Peace Rose Garden Memorial be established at the State Capitol Park grounds. The International World Peace Rose Gardens (IWPRG) organization is nonprofit incorporated in 1988 for the purpose of creating beautiful rose gardens on public, accessible sites as a place for visitors to gather, enjoy beauty and be inspired to promote world peace, unity, friendship and cultural diversity. IWPRG and the California State Capitol Museum eventually established the garden in 2003 as a joint project.

Today, the Victorian-designed garden sits on approximately half an acre in State Capitol Park and features about 650 roses in over 140 varieties of colors and fragrances. Numerous benches are scattered throughout the garden, beckoning visitors to sit and enjoy the breathtaking beauty of multi-colored roses amidst an historic ambiance. Forty-four winning "Inspirational Messages of Peace" by youth are engraved on individual plaques placed throughout the garden to inspire visitors. The garden has received a number of awards and recognitions from organizations around the world. Walkways lead to a small courtyard plaza with a fountain in the center, and a heart-shaped seating wall surrounds an elegant square Peace Pavilion. This plaza portion of the garden is the site of plaques and markers requested by this resolution. The author indicates that he has collaborated with IWPRG on the plans to honor Bird as described in this resolution.

⁴ <https://www.c-span.org/video/?150722-1/california-judicial-recall>.



California State Capitol World Peace Rose Garden: Sacramento, California

- 4) *Role of DGS and Private Funds.* This resolution requests DGS to determine the cost of erecting appropriate plaques and markers, consistent with the signage requirements for state buildings, showing this special designation. Similar to recent resolutions to honor former state officials, private donations will cover the cost. DGS will erect the signage after these non-state donations are received.
- 5) *California State Capitol Park.* In the past 30 years, three new memorials have been completed in Capitol Park: the California Veterans Memorial, the California Firefighters Memorial, and the World Peace Rose Garden. The following memorials also are within the boundaries of Capitol Park: California Vietnam Veterans Memorial, California Peace Officers Memorial, California Veterans of the Korean War Memorial, California Mexican-American Veterans Memorial, Spanish-American War Memorial, California Hispanic Veterans memorial, Fallen Employees of the Department of Transportation Memorial, the Military Order of the Purple Heart Memorial, and the Civil War Memorial Grove. Furthermore, Capitol Park contains a monument in honor of Thomas Starr King, and bronze seals commemorating the California Indians and Spanish/Mexican settlers.

Several additional memorials have been approved by the Legislature (see Prior/Related Legislation) but the Legislature has conditioned the start of construction of those memorials on adoption of a master plan for the Capitol Park by the Joint Committee on Rules. This requirement is intended to address logistical concerns with respect to the specific location and particular size of each memorial and the cumulative effect on the Park's overall environment. For example, a particular group may desire that their specific project be placed in a more visible area of the Park or be larger in size than what can be easily accommodated and overshadow existing memorials.

- 6) *Arguments in Support.* In support of the bill, the IWPRG organization writes:

“[S]ince the garden was dedicated to women, children and their families, we feel that honoring Chief Justice Rose Bird is consistent with the original intent to honor women, especially women who are historical figures that often do not get the recognition they

deserve. Over the course of her career, Rose Bird accomplished many ‘firsts’ for women in law, including being the first female chief justice of the California Supreme Court. In breaking through numerous glass ceilings, she helped open previously closed doors for many women in law. We believe her life would be an inspiration to the many children who exit the buses in front of the World Peace Rose Garden when they visit the State Capitol on field trips.”

Women Lawyers of Sacramento state:

“In breaking through these glass ceilings, [Bird] helped open the door for many women in law that were previously closed....SCR 47 would place a very fitting recognition in the State Capitol World Peace Rose Garden where people may gather to learn more about her and her career.”

- 7) *Prior/Related Legislation.* SCR 31 (Bradford, Res. Chapter 1, Statutes of 2020), names the circle and plaza at 914 and 915 Capitol Mall in the City of Sacramento after former Assembly Speaker Willie L. Brown Jr.

SCR 70 (Caballero, Res. Chapter 177, Statutes of 2022) names the East-End Complex Block 171 in the City of Sacramento after former state agency official Mario Obledo.

AB 1762 (Mathis, Chapter 205, Statutes of 2022) authorizes a nonprofit organization representing Gold Star Families, in consultation with DGS, to plan, construct, and maintain a monument to the Gold Star Families of California on the grounds of the State Capitol.

AB 338 (Ramos, Chapter 280, Statutes of 2021) authorizes the construction and maintenance of a monument to the California Native people of the Sacramento, California, region on the grounds of the State Capitol, and deleted the requirement that DGS erect and maintain a monument to Father Junipero Serra on State Capitol grounds.

ACR 46 (Alpert, Res. Chapter 98, Statutes of 1995) recommends a privately funded World Peace Rose Garden Memorial be established at the State Capitol Park Grounds.

REGISTERED SUPPORT / OPPOSITION:

Support

International World Peace Rose Gardens

Women Lawyers of Sacramento

Opposition

None on file.

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