

ASSEMBLY BILL

No. 1457

**Introduced by Assembly Member Huffman
(Principal coauthor: Assembly Member Feuer)**

February 23, 2007

An act to add Section 5012.3 to the Public Resources Code, relating to parks and recreation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1457, as introduced, Huffman. Parks and recreation: state parks: roads.

(1) Under existing law, the Department of Parks and Recreation has control of the state park system. Existing law authorizes the department to impose conditions and restrictions on the development of a specified roadway on Mulholland Scenic Corridor and Topanga State Park or other state-owned parkland, and upon contiguous portions of Mulholland Drive, if the Director of Parks and Recreation finds that geologic or other circumstances exist that cause or may cause substantial damage to state-owned park resources.

This bill would prohibit a state or local agency, as defined, from funding the construction of, seeking funding to construct, or authorizing or approving the construction of, a road, as defined, or portion thereof, or making an improvement or extension to an existing road, that will physically encroach upon, traverse, bisect, or impair the recreational value of a state park property, as defined, unless the director determines that specified conditions are met. The bill would authorize the department to recover the costs incurred by the department as a result of making those determinations by imposing a fee for those costs on the proponent of the project for the road. The bill would authorize a

person or class of persons to file a civil action to enjoin a person or entity, including a state or local agency, that is alleged to violate the prohibition.

To the extent the bill would impose new requirements on a local agency, to determine whether a project falls within the prohibition, the bill would impose a state-mandated local program.

(2)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 these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5012.3 is added to the Public Resources
2 Code, to read:

3 5012.3. (a) Notwithstanding any other provision of law, and
4 except as provided in subdivision (b), a state or local agency shall
5 not fund the construction of, seek funding to construct, or authorize
6 or approve the construction of, a road or portion thereof, or make
7 an improvement or extension to an existing road, that will
8 physically encroach upon, traverse, bisect, or impair the
9 recreational value of a state park property.

10 (b) Subdivision (a) does not apply if the director determines
11 that all of the following conditions are met:

12 (1) The project for the road includes all feasible planning to
13 minimize harm to the state park property.

14 (2) There are no feasible alternatives to the project for the road
15 that would avoid impacting the state park property.

16 (3) One of the following applies:

17 (A) The road is necessary for the operation, maintenance, or
18 use of the state park property for state park purposes.

19 (B) The road is necessary for the prevention or suppression of
20 fires that pose a threat to life and property.

21 (C) The road is necessary for the construction, operation, or
22 maintenance of utilities located on the state park property.

1 (c) Costs incurred by the department as a result of making the
2 determinations set forth in subdivision (b) may be recovered by
3 the department by imposing a fee for those costs on the proponent
4 of the project for the road.

5 (d) (1) A person or class of persons may file a civil action to
6 enjoin a person or entity, including a state or local agency, that is
7 alleged to be violating this section.

8 (2) A civil action brought pursuant to paragraph (1) may be
9 brought in the superior court in the county in which the violation
10 occurs.

11 (3) Injunctive relief provided pursuant to this subdivision shall
12 not restrict any other right that a person or class of persons may
13 have under a statute or common law, including the right to seek
14 other legal remedies against the state or a local agency.

15 (e) As used in this section, the following terms have the
16 following meanings:

17 (1) "Local agency" means a county, general law or charter city,
18 town, school district, municipal corporation, district, joint powers
19 authority, political subdivision of the state, or a board, commission,
20 or agency thereof, or other local or regional public agency.

21 (2) "Road" means a highway, as defined in Section 360 of the
22 Vehicle Code, street, as defined in Section 590 of the Vehicle
23 Code, toll road or toll highway, as defined in Section 611 of the
24 Vehicle Code, or major thoroughfare.

25 (3) "State agency" includes a state department, division, bureau,
26 board, commission, or any other office within a state agency.

27 (4) "State park property" includes real property or an interest
28 in real property, that is owned, leased, or held under a conservation
29 easement by the department or otherwise under the jurisdiction or
30 control of the department.

31 SEC. 2. If the Commission on State Mandates determines that
32 this act contains costs mandated by the state, reimbursement to
33 local agencies and school districts for those costs shall be made
34 pursuant to Part 7 (commencing with Section 17500) of Division
35 4 of Title 2 of the Government Code.