

AMENDED IN SENATE JUNE 30, 2008

AMENDED IN SENATE JUNE 17, 2008

AMENDED IN ASSEMBLY APRIL 7, 2008

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2455

Introduced by Assembly Member Laird

February 21, 2008

An act to amend Section 15853 of the Government Code, to amend Sections 5006, 5096.501, 5096.511, and 5096.515 of, and to add Article 2.1 (commencing with Section 550) to Chapter 1 of Division 1 of, and Chapter 1.694 (commencing with Section 5096.450) to Division 5 of, the Public Resources Code, relating to state lands.

LEGISLATIVE COUNSEL'S DIGEST

AB 2455, as amended, Laird. State lands: resource land transactions.

(1) ~~Existing law~~ *The Property Acquisition Law* requires the State Public Works Board to acquire, on behalf of the Department of Parks and Recreation, interests in real property, including options to purchase, that have been appraised, selected, and settled through purchase negotiations conducted by the department, subject to certain requirements.

This bill would remove the State Public Works Board as the entity designated to acquire property for the Department of Parks and Recreation, *and instead create the a specified* State Parks Preservation Board ("board"), and *would* require the board to review the ~~departments~~ *department's* recommendations, and ~~authorize~~, *subject to authorization*

by the board to, *would* authorize the department to acquire real property or rights in real property, subject to certain additional requirements, ~~including, but not limited, a prohibition on acquiring property by eminent domain proceedings as specified.~~

(2) Under existing law, the Resources Agency consists of, among other entities, the Department of Parks and Recreation and the Department of Fish and Game, which includes the Wildlife Conservation Board. Existing law also establishes within the agency the State Coastal Conservancy. Existing law authorizes various entities within the agency to acquire land for purposes related to conservation.

Existing law requires an acquisition agency, prior to approving a major acquisition of conservation land, where an agency proposes to spend more than \$25,000,000 of state funds, to contract for at least one independent appraisal of the fair market value of the land and requires that *the* appraisal to be reviewed by a qualified independent appraiser retained by the acquisition agency. Existing law *also* requires the acquisition agency to make available for public review, among other things, the independent appraisal review, a summary of the basis for the recommendation of approval for the acquisition of the land, and any relevant environmental studies, documents, or other information.

Existing law, for purposes of these provisions, defines “acquisition agency” to mean the Wildlife Conservation Board or the State Coastal Conservancy, and “conservation lands” to mean land that is under the jurisdiction of the Wildlife Conservation Board, the State Coastal Conservancy, the Department of Fish and Game, or the Department of Parks and Recreation.

This bill would additionally include the Department of Parks and Recreation in the definition of “acquisition agency.” The bill would ~~additionally~~ *also* require an appraisal, to be conducted as specified, for a major acquisition of conservation lands to include information related to comparable sales in the region and the development potential of the land and would require an acquisition agency to review and amend the appraisal if a period of time longer than one year passes between the time that the appraisal is conducted and its submission to the agency.

This bill would also require an appraisal ~~for~~ *of* the fair market value of the land to be provided to any department, board, or conservancy within the Resources Agency prior to approving the acquisition of land for conservation or recreation purposes. The bill would require the appraisal to be conducted by the Real Estate Services Division of the Department of General Services or an independent appraiser

appropriately licensed by the Office of Real Estate Appraisers and to include information related to comparable sales in the region and the development potential of the land. The bill would require that, if a period of time longer than one year passes between the time that the appraisal is conducted and its submission to the agency, the appraisal be reviewed by an appraiser, as prescribed, and amended if necessary, *prior to an action by the acquisition agency to approve the acquisition*. Land acquired *through a donation or at no cost to the state* would not be subject to the appraisal requirements.

The bill would provide that, if the provisions relating to major acquisitions and the provisions relating to acquisitions by agencies within the Resources Agency are applicable to a major acquisition, and those provisions are inconsistent or duplicative, then the provisions governing major acquisitions would apply.

The bill also would make legislative findings and declarations related to land acquisition processes.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
2 following:
- 3 (a) It is vital to ensure the efficient use of state funds for the
4 acquisition of property by state agencies, in terms of both the
5 amounts paid for property and the procedures used for its
6 acquisition.
- 7 (b) It is important to ensure that a state agency acquiring
8 property acts expeditiously to purchase critically needed state
9 resource lands for purposes of preserving and protecting those
10 lands.
- 11 (c) Several departments within the Resources Agency purchase
12 real property, including the Department of Fish and Game and the
13 Department of Parks and Recreation.
- 14 (d) In 2004, the California Performance Review identified
15 numerous concerns with the review and approval processes for
16 state resource land transactions.
- 17 (e) In 2006, the Legislature passed and the Governor signed AB
18 2497 (Chapter 462, Statutes of 2006), which added Section 12805.3
19 to the Government Code to require the Secretary of the Resources

1 Agency and the Department of Finance to convene a workgroup
2 to evaluate and develop options for improving the efficiency of
3 state resource land transactions.

4 (f) In 2008, the AB 2497 (Chapter 462, Statutes of 2006)
5 workgroup report was submitted to the Legislature and included
6 recommendations for administrative actions to improve the land
7 appraisal process and options for legislative actions to improve
8 resource land transactions and acquisitions. One of those options
9 included establishing a State Parks Board, and shifting acquisition
10 approval from the State Public Works Board to the new State Parks
11 Board.

12 (g) In 2007, the Legislative Analyst's Office identified concerns
13 with the appraisal process for resource land transactions and made
14 recommendations to improve the procedures and independence of
15 appraisals.

16 SEC. 2. Section 15853 of the Government Code is amended
17 to read:

18 15853. (a) The board may select and acquire, in the name of
19 and on behalf of the state, with the consent of the state agency
20 concerned, the fee or any lesser right or interest in any real property
21 necessary for any state purpose or function.

22 (b) If moneys are appropriated by the Budget Act for any fiscal
23 year or by any other act for the acquisition of land or other real
24 property, either (1) subject to this part or (2) for any state agency
25 for whom property is acquired by the board, the moneys and
26 acquisitions are subject to this part and the moneys shall be
27 expended in accordance with this part, notwithstanding any other
28 provisions of law.

29 (c) Notwithstanding any other provisions of law, all land and
30 other real property to be acquired by or for any state agency, other
31 than the Department of Transportation, the Department of Water
32 Resources, the State Reclamation Board, the Department of Fish
33 and Game, the Wildlife Conservation Board, the Department of
34 Parks and Recreation, the Public Employees' Retirement System,
35 the State Teachers' Retirement System, the Department of Housing
36 and Community Development, the State Lands Commission, except
37 for property to be acquired for the State Lands Commission
38 pursuant to an appropriation from the General Fund, and the State
39 Coastal Conservancy with respect to acceptance of offers to
40 dedicate public accessways made pursuant to Division 20

1 (commencing with Section 30000) of the Public Resources Code,
2 shall be acquired by the State Public Works Board in accordance
3 with this part.

4 (d) The board may acquire furnishings that the owner thereof
5 agrees to sell and that are contained within improvements acquired
6 by the board. Cost of acquisition of furnishings shall be charged
7 to the appropriation available for acquisition of the real property.

8 SEC. 3. Article 2.1 (commencing with Section 550) is added
9 to Chapter 1 of Division 1 of the Public Resources Code, to read:

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Article 2.1. State Parks Preservation Board

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550. (a) The Legislature finds and declares that the preservation of the state's extraordinary biological diversity, protection of its most valued natural and cultural resources, and the creation of opportunities for high-quality outdoor recreation are a critical part of providing adequate parks and recreation for the state's people in the interest of public welfare. It is the policy of the state to acquire and restore to the highest possible level, and maintain in a state of high productivity, those areas that can be most successfully used to support biological diversity, natural and cultural resources, and recreation.

(b) To carry out these purposes, a single and coordinated program for the acquisition of lands and facilities suitable for natural, cultural, and recreational purposes, is hereby established.

551. There is within the Department of Parks and Recreation the State Parks Preservation Board, which is hereby created. The board shall consist of the chair of the commission, the director, and the Director of Finance.

552. The members of the board shall elect a chairman.

553. The board shall review recommendations from the department and shall authorize the acquisition of real property or rights in real property, pursuant to this article and as may be necessary to carry out the purposes of this article.

554. Two Members of the Senate, appointed by the Senate Committee on Rules, and two Members of the Assembly, appointed by the Speaker of the Assembly, shall ~~meet with the board and participate in its activities to the extent that such participation is not incompatible with their respective positions as Members of the Legislature.~~ *serve as ex officio members.*

1 555. (a) When the department acquires real property, the
2 purchase price for the real property shall not exceed the fair market
3 value of the property, as defined in Section 1263.320 of the Code
4 of Civil Procedure.

5 (b) The fair market value shall be set forth in an appraisal that
6 is prepared by a licensed real estate appraiser and approved by the
7 Department of General Services.

8 SEC. 4. Section 5006 of the Public Resources Code is amended
9 to read:

10 5006. (a) The department, subject to authorization by the State
11 Parks Preservation Board pursuant to Article 2.1 (commencing
12 with Section 550) of Chapter 1 of Division 1, may acquire title to
13 or any interest in real property, including personal property
14 incidental to the purchase of real property and options to purchase
15 property, which the department deems necessary or proper for the
16 extension, improvement, or development of the state park system.
17 All real and personal property acquired by the department for the
18 state park system shall be under the jurisdiction of the department
19 immediately upon transfer of title to the state.

20 (b) The department shall not acquire property by eminent
21 domain proceedings. The State Parks Preservation Board may
22 authorize acquisition by the State Public Works Board, which may
23 effect acquisitions pursuant to the Property Acquisition Law, Part
24 11 (commencing with Section 15850) of Division 3 of Title 2 of
25 the Government Code.

26 (c) (1) The department may appraise and select real property
27 for the purpose of acquiring an option to purchase the real property
28 for the state park system. Out of moneys appropriated for the
29 acquisition of options to purchase, no more than ten thousand
30 dollars (\$10,000) may be expended for the acquisition of any single
31 option unless otherwise provided by the Legislature. The
32 department may utilize the services of the Real Estate Services
33 Division of the Department of General Services or may contract
34 with independent appraisers appropriately certified by the Office
35 of Real Estate Appraisers, to assist in appraising property.

36 (2) The department may appraise and select real property for
37 potential acquisition of, and addition to, the state park system. The
38 department may utilize the services of the Real Estate Services
39 Division of the Department of General Services or may contract
40 with independent appraisers appropriately certified by the Office

1 of Real Estate Appraisers, to assist in appraising the property. Prior
2 to appraising the property, the Department of Parks and Recreation
3 shall notify the owners of the real property that the department is
4 considering the real property for acquisition, and may have it
5 appraised. The department shall determine the form and manner
6 of giving the notice.

7 (3) The department may select real property it has appraised
8 and submit purchase offers and negotiate a purchase agreement
9 with the owner or owners of the property. The department shall
10 be responsible for implementing and processing the purchase
11 agreement and conveyance of title to the state. The department
12 may utilize the services of the Real Estate Services Division of
13 the Department of General Services, or may contract with other
14 state agencies with real estate and right-of-way acquisition
15 programs, to assist in negotiating purchase agreements and
16 conveyance of title.

17 (d) Upon acquisition of real property for the state park system,
18 the department shall be responsible for providing relocation
19 assistance to displaced persons as provided under Chapter 16
20 (commencing with Section 7260) of Division 7 of Title 1 of the
21 Government Code. The department may utilize the services of the
22 Real Estate Services Division of the Department of General
23 Services, or may contract with other state agencies or private
24 consultants with real estate and right-of-way acquisition programs,
25 to assist in relocation planning and implementation.

26 (e) (1) Requests for funding to administer the department's
27 acquisition program shall be submitted by the department for
28 inclusion in the Governor's Budget for each fiscal year.

29 (2) Requests for funding to acquire options to purchase real and
30 personal property for the state park system shall be submitted by
31 the department for inclusion in the Governor's Budget for each
32 fiscal year based upon its estimate of the amount needed for that
33 purpose. If an option to purchase real property for the state park
34 system has been acquired, the funding proposed by the department
35 shall be the appraised value of the property less the sum expended
36 by the state park system for the purchase of the option. The
37 expenditure of the moneys shall be subject to the limitation
38 specified in paragraph (1) of subdivision (c) unless otherwise
39 provided by the Legislature.

1 (3) Requests for funding to acquire real property or any interest
 2 in real property shall be submitted by the department for inclusion
 3 in the Governor’s Budget for each fiscal year. The projects shall
 4 have been selected and appraised by the department pursuant to
 5 subdivision (c) prior to inclusion. The Governor’s Budget shall
 6 contain a separate description of each project, or acquisition
 7 program and its appraised value, or funding allocation.

8 (4) Purchase negotiations for interests in real property shall be
 9 initiated within six months of the effective date of the act that
 10 appropriates funds for the acquisition. Purchase negotiations on
 11 all projects not proposed pursuant to this subdivision shall be
 12 initiated within 12 months of the effective date of the act
 13 appropriating funds for the acquisition. Either title shall be
 14 conveyed or a written agreement to transfer title shall be executed
 15 within the appropriate authorization period unless the department
 16 formally abandons the acquisition prior to the conclusion of the
 17 appropriate authorization period. For the purposes of this section,
 18 in order for the department to “formally abandon” an acquisition,
 19 it shall transmit written notification to the Department of General
 20 Services and the State Parks Preservation Board of its intent not
 21 to proceed with the acquisition.

22 (f) The requirements imposed by subdivision (e) are in addition
 23 to any other provisions of law requiring the inclusion of state park
 24 system acquisition projects in the Governor’s Budget.

25 (g) The department shall not enter into any purchase agreements
 26 for the acquisition of real property if the consideration to be paid
 27 by the department is in excess of five hundred thousand dollars
 28 (\$500,000), unless Section 5006.1 has been complied with.

29 (h) Notwithstanding any other provision of law, all appraisals
 30 conducted by the department pursuant to this section shall be
 31 reviewed and approved by the Department of General Services or,
 32 at the discretion of the Department of General Services, a
 33 competent professional appraiser approved by the Department of
 34 General Services. Real property shall be appraised and appraisal
 35 review completed before commencement of purchasing
 36 negotiations. All contracts related to the acquisition of real property
 37 shall be reviewed and approved by the Department of General
 38 Services pursuant to Section 11005 of the Government Code.

39 SEC. 5. Chapter 1.694 (commencing with Section 5096.450)
 40 is added to Division 5 of the Public Resources Code, to read:

1 CHAPTER 1.694. APPRAISAL OF LAND ACQUISITIONS

2
3 5096.450. For purposes of this chapter, the following terms
4 have the following meanings:

5 (a) "Acquisition" means all land and other real property to be
6 acquired in fee title or by easement for conservation or recreation
7 purposes.

8 (b) "Acquisition agency" means a department, board, or
9 conservancy within the Resources Agency that acquires land for
10 conservation or recreation purposes.

11 5096.451. Prior to an action by an acquisition agency to
12 approve an acquisition of land for conservation or recreation
13 purposes, an appraisal of the fair market value of the land shall be
14 provided to the acquisition agency for consideration. The appraisal
15 shall be conducted by the Real Estate Services Division of the
16 Department of General Services or an independent appraiser
17 appropriately licensed by the Office of Real Estate Appraisers,
18 pursuant to Part 3 (commencing with Section 11300) of Division
19 4 of the Business and Professions Code. The appraisal shall be
20 prepared pursuant to the Uniform Standards of Professional
21 Appraisal Practice and any supplemental standards that inform the
22 acquisition of conservation and recreation lands, if applicable.

23 5096.452. The appraisal conducted pursuant to Section
24 5096.451 shall include, but is not limited to, the following
25 information:

26 (a) Comparable sales in the region.

27 (b) The development potential of the land and the basis for the
28 determination of the development potential.

29 5096.453. If a period of time longer than one year passes
30 between the time that an appraisal required pursuant to Section
31 5096.451 is conducted and the time that the appraisal is submitted
32 for approval by the acquisition agency, the appraisal shall be
33 reviewed by an appraiser, pursuant to Section 5096.451, and
34 amended if necessary prior to an action by the acquisition agency
35 to approve the acquisition.

36 5096.454. Land, acquired by an acquisition agency *through a*
37 *donation or* at no cost to the state, shall not be subject to the
38 requirements of Section 5096.451.

39 SEC. 6. Section 5096.501 of the Public Resources Code is
40 amended to read:

1 5096.501. For purposes of this chapter, the following terms
2 have the following meanings:

3 (a) “Acquisition agency” means the Wildlife Conservation
4 Board, the State Coastal Conservancy, or the Department of Parks
5 and Recreation.

6 (b) “Conservation lands” means any land or interest therein to
7 be acquired by an acquisition agency, or that is owned by the state
8 and under the jurisdiction of the Wildlife Conservation Board, the
9 State Coastal Conservancy, the Department of Fish and Game, or
10 the Department of Parks and Recreation.

11 (c) “Major acquisition” means an acquisition where an agency
12 proposes to spend more than twenty-five million dollars
13 (\$25,000,000) of state funds.

14 SEC. 7. Section 5096.511 of the Public Resources Code is
15 amended to read:

16 5096.511. (a) Prior to an action by an acquisition agency to
17 approve a major acquisition of conservation lands, the acquisition
18 agency shall contract for at least one independent appraisal of the
19 fair market value of the land. The appraisal shall be conducted by
20 an independent appraiser appropriately licensed by the Office of
21 Real Estate Appraisers, pursuant to Part 3 (commencing with
22 Section 11300) of Division 4 of the Business and Professions Code.
23 The appraisal shall be prepared pursuant to the Uniform Standards
24 of Professional Appraisal Practice and any supplemental standards
25 that inform the acquisition of conservation and recreation lands,
26 if applicable.

27 (b) The appraisal conducted pursuant to this section shall
28 include, but is not limited to, the following information:

29 (1) Comparable sales in the region.

30 (2) The development potential of the land and the basis for the
31 determination of the development potential.

32 (c) If a period of time longer than one year passes between the
33 time that an appraisal required pursuant to this section is conducted
34 and the time that the appraisal is submitted to the acquisition
35 agency for review pursuant to Section 5096.512, the acquisition
36 agency shall review and amend that appraisal before taking any
37 further action on that appraisal.

38 SEC. 8. Section 5096.515 of the Public Resources Code is
39 amended to read:

1 5096.515. (a) The procedures and requirements established
2 pursuant to this chapter are in addition to, and do not amend,
3 modify, or supplant, any procedures or requirements established
4 pursuant to the Water Security, Clean Drinking Water, Coastal
5 and Beach Protection Act of 2002 (Division 26.5 (commencing
6 with Section 79500) of the Water Code) or the California Clean
7 Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection
8 Act of 2002 (Chapter 1.696 (commencing with Section 5096.600)),
9 for the acquisition of conservation lands.

10 (b) Chapter 1.694 (commencing with Section 5096.450) and
11 this chapter shall apply to major acquisitions, except where
12 duplicative of, or inconsistent with, the provisions of this chapter,
13 in which case this chapter shall govern.